

## **JUNE 21, 2005 AGENDA REPORTS**

### **Agenda Item No. 5a**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0577

TO: Mayor and City Council Members

SUBJECT: Petition to Renovate Building Facade at 535 W. Douglas (District IV)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Petition.

Background: On March 20, 2001, the City Council approved a Facade Improvement Program designed to provide low-cost loans to enhance the visual aesthetics in the downtown area and provide an incentive for businesses to improve their property. Low interest, fifteen-year loans are provided owners of buildings with frontage on Douglas Avenue, between Seneca and Washington. Up to two facades per building can be improved with 25% of the cost up to \$30,000 in the form of a forgivable loan. The owner of a building located at 535 W. Douglas has submitted the required Petition. The signature on the Petition represents 100% of the improvement district.

Analysis: The building is currently vacant. Its last occupant was a retail motorcycle shop. It was built in the 1920's by the Travel Air Company. The facade project will restore the storefront to its original appearance, with new windows and doors.

Financial Considerations: The estimated project cost is \$254,650, with \$242,650 paid by special assessments and \$30,000 by a forgivable loan.

Legal Considerations: State Statutes provide the City Council authority to use Special Assessment funding for the projects. Approval of the Petition does not relieve the owner of requirements to obtain all necessary permits and reviews by applicable City Boards.

Recommendation/Action: It is recommended that the City Council approve the Petition, adopt the Resolution, approve the Facade Easement and authorize the necessary signatures.

### **Agenda Item No. 5b**

City of Wichita

City Council Meeting  
June 21, 2005

Agenda Report No. 05-0578

TO: Mayor and City Council Members

SUBJECT: Petition to assess a Sewer Main Benefit Fee to part of Reed's Cove 3rd Addition (south of 21st, east of 127th St. East) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Petition.

Background: The Petition has been signed by one owner, representing 100% of the improvement district.

Analysis: A portion of Reed's Cove 3rd Addition has not previously been included in a sanitary sewer main improvement district and is subject to a sewer main benefit fee. This petition allows the main benefit fee to be paid as a special assessment.

Financial Considerations: The Petition totals \$13,200. The funding source is special assessments.

Legal Considerations: State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Recommendation/Action: It is recommended that the City Council approve the Petition and adopt the Resolution.

### **Agenda Item No. 8a**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0579

TO: Mayor and City Council

SUBJECT: Microfilm Services Contract

INITIATED BY: Department of Finance

AGENDA: Consent

Recommendation: Approve contract extension.

Background: The City of Wichita is in the process of converting from microfilm to a laserfiche document imaging system. The new laserfiche system is being implemented in all departments.

Analysis: Discussions with Engineering, Planning, Municipal Court and OCI have indicated a continuing need for microfilm services for these departments who have large paperwork volume during the transition to the new laserfiche document imaging system. These departments need more time to convert from microfilm to laserfiche.

The City has a contract with Microfilm Services, which expires June 30, 2005. Rather than re-bid a new vendor contract for microfilm services, which is to be phased out by June 2006, it is recommended the City extend the existing contract for one year. The current annual City spending for microfilm services is \$47,000.

Financial Considerations: The City has \$90,000 budgeted in the 2005 and 2006 budgets for microfilm services.

Legal Considerations: The Department of Law will review and approve as to form the contract extension.

Recommendations/Actions: It is recommended that the City Council approve a one-year contract extension for Microfilm Services, Inc. and authorize the appropriate signatures.

### **Agenda Item No. 8b**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0580

TO: Mayor and City Council

SUBJECT: Agreement to Respread Assessments: Southern Ridge 3rd Addition (south of Pawnee, west of Maize) (District IV)

INITIATED BY: Department of Finance

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The landowner, Maize Road, L.L.C., platted Southern Ridge 3rd Addition and has submitted an Agreement to respread special assessments within the Addition.

Analysis: The land was originally included in an improvement district for a storm water drain project. The purpose of the Agreement is to respread special assessments on a fractional basis for each lot. Without the Agreement, the assessments will be spread on a square foot basis.

Financial Considerations: There is no cost to the City.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

### **Agenda Item No. 8c**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0581

TO: Mayor and Members of the City Council

SUBJECT: CDBG/ESG Contracts

INITIATED BY: Department of Housing and Community Services

AGENDA: Consent

Recommendation: Approve the contracts.

Background: On March 16, 2004, the City Council allocated Community Development Block Grant (CDBG) funds for the 2004/2005-program year. Included in the 2004/2005 CDBG allocations were funds for women's shelter services. Women's shelter services were procured through a competitive Request for Proposal (RFP).

Analysis: The contracts with the Delegate Agencies provide operating assistance for the approved projects. The contract term is twelve months beginning July 1, 2005 and ending June 30, 2006.

Financial Considerations: The contract amounts are funded in the approved 2005/2006 CDBG/ESG budgets.

Legal Considerations: Contracts have been negotiated with the Delegate Agencies and signed by their authorized representative. The Law Department has reviewed and approved the contracts as to form.

Recommendation: It is recommended the City Council approve the contracts and authorize the necessary signatures.

### **Agenda Item No. 8d**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0582

TO: Mayor and City Council

SUBJECT: HOME CHDO Housing Development Funding Agreements  
(Districts I, III, IV, V, VI)

INITIATED BY: Housing and Community Services Department

AGENDA: Consent

Recommendation: Approve the contracts.

Background: On March 8, 2005, the City Council approved an allocation of \$350,000 in HOME funding for housing development projects to be carried out by three of the City's designated Community Housing Development Organizations (CHDO's), as part of the Consolidated Plan funding process. Mennonite Housing Rehabilitation Services, Inc. (MHRS) received an allocation of \$150,000, Community Housing Services of Wichita/Sedgwick County, Inc. (CHS) received an allocation of \$50,000, and Power CDC received an allocation of \$150,000. Further, the City Council approved an allocation of \$200,000 for the CHDO Boarded-up House Program. This program provides a means for CHDO's to obtain zero-interest, forgivable loans to address blighted housing in the City's Local Investment Areas (LIA's). City-approved CHDO's with experience in single-family housing development are eligible for participation in the program, and may utilize the funding to acquire boarded-up or otherwise blighted structures for the purpose of rehabilitation or demolition and construction of a new home.

CHS is in the process of developing homes with prior-year HOME CHDO funding. The funding was provided to enable CHS to undertake a program to purchase homes or sites and rehabilitate or construct new single-family housing in the City's Northeast or North Central Local Investment Area. CHS has utilized the funding to acquire sites for the development of four new homes, to construct one new home, and to complete rehabilitation of an existing home. The funding agreement expires June 30, 2005. CHS has requested extension of the agreement in

order to complete the development of two to three additional homes. Approximately \$80,000 in HOME CHDO set-aside funding remains.

MHRS has completed development of five new homes in the Hilltop Local Investment Area utilizing prior-year HOME CHDO funding. It is estimated that \$40,000 of funding will remain following completion of site improvements. MHRS has requested approval to utilize the remaining funding to carry out additional single-family housing development projects within the boundaries of the City's Local Investment Areas.

Analysis: Housing Services is requesting approval for a funding agreement in the amount of \$150,000 for MHRS, in order to partially finance the development of at least five new homes in the City's Local Investment Areas, a funding agreement in the amount of \$50,000 for CHS, in order to partially finance the construction of at least two new homes or rehabilitation of one home in the City's Northeast or North Central Local Investment Area, and an agreement with Power CDC in the amount of \$150,000, to partially finance the development of at least five new homes in the City's Northeast Local Investment Area.

Housing Services is also requesting approval for the funding agreement providing for \$200,000 in HOME funding that was allocated for the 2004-2005 Boarded-up House Program. MHRS, CHS, Power CDC and Wichita Indochinese Center, Inc., will be parties to the agreement. In addition, Housing Services requests approval of amendment of the prior-year CHS funding agreement and amendment of the prior-year MHRS Hilltop Project funding agreement.

All homes constructed or rehabilitated with HOME funding will be sold to income-eligible, owner-occupant families receiving down payment and closing costs assistance through the City's HOMEownership 80 Program.

Financial Considerations: Total project cost of the three new CHDO housing development projects and the Boarded-up House Program is estimated to be \$1,615,000. HOME funding may be utilized to cover the costs involved in acquisition, rehabilitation and/or construction, site improvements, developer fees, and when necessary, demolition, for 17 homes. Each CHDO will leverage HOME funds with private sector construction loans or other financing. CHDO's participating in the Boarded-up House Program will also leverage HOME funds with private sector construction loans.

Legal Considerations: Funding agreements and any amendments will be approved as to form by the City Law Department. HOME regulations require completion of HOME-eligible projects on sites purchased with HOME funds. With the exception of the funding allocated for the Boarded-up House Program, the CHDO project funding is provided as part of the City's mandatory 15% set-aside for eligible CHDO's.

Recommendations/Actions: It is recommended that the City Council approve the HOME funding contracts for MHRS, CHS and Power CDC, the new funding agreement for the Boarded-up House Program, the contract amendments for the CHS and MHRS prior-year funding agreements, and authorize the necessary signatures.

## **Agenda Item No. 8e**

CITY OF WICHITA  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0583

TO: Mayor and City Council

SUBJECT: Veterinary Services Contract for Animal Shelter

INITIATED BY: Department of Environmental Services

AGENDA: Consent

Recommendation: Approve the contract for veterinary services to be provided to the Wichita Animal Shelter by Heartland Animal Hospital.

Background: The Kansas Animal Dealers Act requires that all Animal Shelters provide veterinary services and necessary training to Animal Shelter staff. Veterinarians also provide medical supplies and consultation to the Animal Services program. Heartland Animal Hospital was the sole bidder for veterinary services for the Animal Control program.

Analysis: The contract specifies that a veterinarian from the clinic will visit the City facility a minimum of four times per week and be available for additional veterinary consultations as needed. It also provides necessary technical training for Animal Control staff and will require that the veterinarian meet with the media on matters requiring veterinary expertise upon request by the City.

Financial Considerations: The contract calls for a monthly charge of \$1,000. This represents an increase of fifty dollars per month compared to the previous contract signed in 2003.

Legal Considerations: The Law Department has approved the contract as to form.

Recommendations/Actions: Approve the contract for veterinary services, and authorize the appropriate signatures.

CONTRACT for VETERINARIAN CONSULTANT SERVICES

BLANKET PURCHASE ORDER NUMBER BPXXXXXX

THIS CONTRACT entered into this 21st day of June, 2005, by and between the CITY OF WICHITA, KANSAS, a municipal corporation, hereinafter called "CITY", and HEARTLAND ANIMAL HOSPITAL, 4100 N. Woodlawn, Wichita, Kansas, 67220, Telephone Number (316) 744-2043 hereinafter called "CONTRACTOR".

WITNESSETH:

WHEREAS, the CITY has solicited a proposal for Veterinarian Consultant Services (Formal Proposal – FP500043); and

WHEREAS, CONTRACTOR has submitted the proposal most beneficial to the CITY and is ready, willing, and able to provide the commodities and/or services required by the CITY.

NOW, THEREFORE, the parties hereto agree as follows:

1. Scope of Services. CONTRACTOR shall provide to the CITY all those commodities and/or services specified in its response to Formal Proposal Number – FP500043, which is incorporated herein by this reference the same as if it were fully set forth. The proposal package, including all specifications, plans and addenda, provided by the City of Wichita as part of the proposal letting process for Formal Proposal – FP500043, shall be considered a part of this contract and is incorporated by reference herein.
2. Compensation. CITY agrees to pay to CONTRACTOR a monthly fee of One Thousand Dollars (\$1,000.00) for Veterinarian Consultant Services as per the proposal, plans, specifications, addenda and Contractor's proposal of May 24, 2005 and as approved by the City Council on June 21, 2005.

I. SCOPE OF SERVICES AS TO ANIMALS:

- A. The CONTRACTOR shall make on-site visits to Animal Services located at 3303 N. Hillside, Wichita, Kansas, four different days a week and at such other times as shall be requested by the Shelter Manager for the purpose of: 1) providing inspections of the animals and the facilities as to compliance with recognized standard veterinary medical care and humane treatment of animals; 2) examining injured animals to determine whether or not the injured animal is being properly cared for; 3) to advise whether or not further veterinary medical treatment is needed for such animals; 4) to determine whether injured animals are diseased or disabled beyond recovery for useful purposes; and 5) to euthanize or supervise CITY employees euthanization of animals.
- B. The CONTRACTOR shall make contact by telephone on days when personal visits are not made and shall be available during normal working hours to provide advice on the treatment of injured or diseased animals that are received by the Animal Services Shelter.
- C. The CONTRACTOR shall provide emergency treatment for injured animals delivered to him by the CITY at his veterinary clinic hospital during the hours his veterinary clinic is open to the public. The CONTRACTOR shall provide services for injured animals delivered to Animal Services for treatment by CITY personnel as set forth in Paragraph I.A. above and shall, on his visits to Animal Services, determine whether such animals are disabled beyond recovery for useful purposes and, therefore, cannot be humanely cared for over a seventy-two (72) hour period.



D. The services provided by the CONTRACTOR will be limited to cats and dogs.

## II. SCOPE OF SERVICES AS TO TRAINING AND VETERINARY MEDICAL SUPERVISION:

The CONTRACTOR shall provide training sessions in the veterinary medical field to the CITY's Animal Services Officers, Animal Services Shelter, Personnel, and other appropriate CITY staff on a request basis in the following areas:

A. The humane handling and treatment of animals pursuant to veterinary medical practice and pursuant to State law.

B. In the area of handling injured animals, identifying injured animals that need the services of a veterinarian and the providing of veterinary medical treatment for animals that have sustained minor injuries.

C. Providing instructions on identifying animals which are disabled or diseased beyond recovery for any useful purpose and providing instruction to appropriate CITY personnel on proper humane treatment for animals.

D. Training for first aid and emergency treatment for animals.

E. Provide euthanization of excess, unwanted animals at agreed upon times Monday through Friday and also on weekends as necessary, such work is to be performed according to the methods prescribed by K.S.A. 47-1718, as amended.

F. In addition, the CONTRACTOR will order, at CONTRACTOR's cost, plus 10%, on behalf of the CITY, all veterinary medical supplies used in treatment of animals being cared for at Animal Services and will supervise and instruct in the use of these veterinary medical supplies. The CONTRACTOR will be reimbursed by the CITY upon the submission of a voucher.

G. Meet with local media for interviews concerning technical veterinary subjects when requested by the Second Party.

3. Term. The term of this contract shall be for a term commencing July 1, 2005 through June 30, 2006. This contract may be renewed under the same terms and conditions for one (1) or two (2) successive one (1) year periods by mutual agreement of both parties. This contract is subject to cancellation by the CITY, at its discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to CONTRACTOR.

4. Indemnification and Insurance.

a. CONTRACTOR shall save and hold the CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of CONTRACTOR, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract.

b. CONTRACTOR will carry insurance coverage during the term of this contract and any extensions thereof in the amounts and manner provided as follows:

1. Comprehensive General Liability covering premises—operations, xcu (explosion, collapse and underground) hazards when applicable, Product/Completed operations, Broad Form Property Damage, and Contractual Liability with minimum limits as follows:

Bodily Injury Liability	\$500,000 each occurrence \$500,000 each aggregate
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Property Damage Liability	\$500,000 each occurrence \$500,000 each aggregate
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Or

Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 each occurrence \$500,000 each aggregate
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2. Automobile Liability - Comprehensive Form including all owned, hired and non-owned vehicles with minimum limits for:

Bodily Injury Liability	\$500,000 each accident
Property Damage Liability	\$500,000 each accident

Or

Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 each accident
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3. Workers' Compensation/Employers Liability for minimum limits of:  
Employers Liability \$100,000 each accident

The Insurance Certificate must contain the following:

- A. Statement that the Contractual Liability includes the Liability of the City of Wichita assumed by the Contractor in the contract documents.
- B. Cancellation – should any of the above policies be canceled before the expiration date thereof the issuing company will mail ten (10) days written notice to certificate holder.

5. Independent Contractor. The relationship of the CONTRACTOR to the CITY will be that of an independent contractor. No employee or agent of the CONTRACTOR shall be considered an employee of the CITY.

6. Compliance with Laws. CONTRACTOR shall comply with all laws, statutes and ordinances which may pertain to the providing of services under this Contract.

7. No Assignment. The services to be provided by the CONTRACTOR under this Contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the CITY.

8. Non-Discrimination. CONTRACTOR shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached hereto as Exhibit A.

9. Third Party Rights. It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this Contract to create the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this Contract to maintain a suit for damages pursuant to the terms or provisions of this Contract.

10. No Arbitration. The Contractor and the City shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in bid or proposal documents is deemed void.

11. Governing Law. This contract shall be interpreted according to the laws of the State of Kansas.

12. Representative's Authority to Contract. By signing this contract, the representative of the contractor or CONTRACTOR represents the he or she is duly authorized by the contractor or CONTRACTOR to execute this contract, and that the contractor or CONTRACTOR has agreed to be bound by all its provisions.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

ATTEST:

CITY OF WICHITA, KANSAS

\_\_\_\_\_  
Karen Sublett  
City Clerk

by\_\_\_\_\_  
Carlos Mayans  
Mayor

APPROVED AS TO FORM:

HEARTLAND ANIMAL HOSPITAL

\_\_\_\_\_  
Gary E. Rebenstorf

\_\_\_\_\_  
Signature

Director of Law

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Print Name

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Title (President or Secretary)

## EXHIBIT A

### REVISED NON DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, Contractor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination Equal Employment Opportunity/Affirmative Action Program Requirements:

A. During the performance of this contract, the contractor, subcontractor, Contractor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.

B. Requirements of the State of Kansas:

1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44 1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;

2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";

3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44 1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or Contractor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The Contractor, supplier, contractor or subcontractor shall practice Non-Discrimination Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

2. The Contractor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the Contractor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;

3. The Contractor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non Discrimination Equal Employment Opportunity Requirements. If the Contractor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the Contractor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The Contractor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subcontractor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, Contractors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those Contractors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, Contractor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

### **Agenda Item No. 8f**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0584

TO: Mayor and City Council

SUBJECT: Renewal of Food Service Establishment Inspection Contract  
with the Kansas Department of Agriculture

INITIATED BY: Department of Environmental Services

AGENDA: Consent

Recommendation: Approve renewal of the contract with the Kansas Department of Agriculture (KDA) for food service establishment inspections.

Background: The Environmental Health Department has conducted inspections of food service establishments within Sedgwick County on behalf of the KDA since October of 2005, when the Kansas legislature assigned KDA responsibility for food service establishments located in grocery and convenience stores. Prior to this time, the Kansas Department of Health and Environment regulated these businesses, and Environmental Services performed inspections under contract.

Analysis: KDA has proposed renewal of this contract for state fiscal year 2006 (July 1, 2005 through June 30, 2006.) Contract inspections by local entities reduce duplication of effort, provide a single source of contact for industry and citizens, and contribute substantially to local food protection budgets. Local staff administers and applies state regulations and utilizes state enforcement mechanisms as appropriate.

Financial Considerations: KDA remits eighty percent of license revenue (as established by Kansas statute) to the City, and provides enforcement assistance for local staff. Staff estimates the value of the contract at approximately \$32,000 annually, representing a significant contribution to the funding of local food protection activities. A similar contract with the Kansas Department of Health and Environment for inspections of all other food service establishments is projected to yield approximately \$328,000, and an additional \$35,000 in revenue is projected from the sale of City grocery and food processor licenses.

Legal Considerations: The Department of Law has reviewed the contract, and approved it as to form.

Recommendations/Actions: It is recommended that the Council approve the contract with the Kansas Department of Agriculture, and authorize the appropriate signatures.

06-21-2005                      FOURTH AMENDMENT TO THE  
CDBG CONTRACT BETWEEN THE CITY OF WICHITA  
AND  
KANSAS FOODBANK WAREHOUSE, INC.

THIS CONTRACT AMENDMENT is executed this 21st day of June 2005 by and between the City of Wichita, Kansas (hereinafter called the City) and Kansas Foodbank Warehouse, Inc., (hereinafter called the Delegate Agency).

WITNESSETH THAT:

WHEREAS, on the 1st day of July, 2002 the above named entities were parties to a contract with the caption as above set out; and

WHEREAS, the above named parties now wish to modify and amend said contract for the purpose of clarifying and amending certain elements of the project;

NOW, THEREFORE, the above named parties hereby agree, covenant and contract that the terms of the original contract dated the 1st day of July, 2002 are hereby reaffirmed and re-executed for and on behalf of these parties, except for the following clarifications, amendments, modifications and changes:

A.      SECTION 2. TIME OF PERFORMANCE., is hereby amended to read as follows:

The services of the Delegate Agency shall be undertaken and completed in such sequence as to assure an expeditious completion in light of the purposes of this contract through a period of thirty-six (36) months ending no later than June 30, 2005, unless otherwise extended by the parties.

Kansas Foodbank Warehouse, Inc.                      June 21, 2005                      800204/010140/602412

Delegate Agency – Kansas Foodbank Warehouse, Inc. Kenny Doonan, President                      Date

CITY OF WICHITA, KANSAS

Carlos Mayans, Mayor

Date

ATTEST:  
Karen Schofield  
City Clerk  
Date

Approved as to Form:

Gary E. Rebenstorf, City Attorney

Date

**Agenda Item No. 9**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0585

TO: Mayor and City Council Members

SUBJECT: Change Order: Waterwalk Public Improvements (north of Kellogg, west of Main) (District I)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Change Order.

Background: On March 8, 2005 the City Council approved a construction contract for street and utility improvements associated with the Waterwalk. The developer has requested that concrete intersections with brick crosswalks be constructed in lieu of planned asphalt intersections. In addition, plans did not provide for conduit crossings under the streets for street lighting and irrigation. Sleeves are required to prevent future expensive boring. A sidewalk north of Dewey has been deleted in this phase of construction due to the uncertainty of what is to be constructed in that area.

Analysis: A Change Order has been prepared for the additional work. Funding is available within the project budget.



Financial Considerations: The total cost of the additional work is \$58,396 with the total paid by General Obligation Bonds. The original amount for the street work is \$638,835. This Change Order plus previous change orders represents 17.43% of the original contract amount.

Legal Considerations: The Law Department has approved the Change Order as to legal form. The Change Order amount is within 25% of the construction contract cost limit set by the City Council policy.

Recommendation/Action: It is recommended that the City Council approve the Change Order and authorize the necessary signatures.

October 26, 2004

**PUBLIC WORKS-ENGINEERING CHANGE ORDER**

To: Dondlinger & Sons      Project: Water Main Replacement – Harry, Oliver to Woodlawn  
Change Order No.: 3   Project No.: 448-89700  
Purchase Order No.: 301361   OCA No.: 636116  
CHARGE TO OCA No.: 636116   PPN: 772513

Please perform the following extra work at a cost not to exceed   \$11,950.00

There were originally 60 services estimated to be in need of repair, and 29 more are needed.

**OVERRUN:**

Long Water Service (1") – 4 ea @ \$550.00/ea   = \$ 2,200.00

Short Water Service (1") – 25 ea @ \$450.00/ea   = \$11,250.00

**UNDERRUN:**

Long Water Service (2") – 1 ea @ \$1,500.00/ea   = (\$ 1,500.00)

Total      \$11,950.00

Recommended By:    Approved:

\_\_\_\_\_  
Lawrence Schaller, P.E.      Date  
Construction Engineer

\_\_\_\_\_  
Jim Armour, P.E.      Date  
Acting City Engineer

Approved:      Approved:

\_\_\_\_\_  
Contractor      Date

\_\_\_\_\_  
Chris Carrier, P.E.      Date  
Acting Director of Public Works

Approved as to Form: By Order of the City Council:

\_\_\_\_\_  
Gary Rebenstorf  
Director of Law

\_\_\_\_\_  
Date

\_\_\_\_\_  
Carlos Mayans  
Mayor

\_\_\_\_\_  
Date

Attest: \_\_\_\_\_  
City Clerk

### **Agenda Item No. 10a**

CITY OF WICHITA  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0586

TO: Mayor and City Council Members

SUBJECT: Acquisition of 2348 South Pattie Street for Pawnee Widening  
Improvement Project from Washington to Hydraulic (District III)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On October 21, 2003, the City Council approved the improvement and widening of Pawnee from Washington to Hydraulic. The project will require partial or total acquisition of 21 parcels, of which 15 are single-family residences. The 7th residence of the 15 required residential acquisitions is a 898 square foot single-family residence at 2348 South Pattie Street, northeast corner of East Pawnee and South Pattie. The property has 2 bedrooms, 1 bathroom and consists of frame construction. The property is owner-occupied.

Analysis: The property was appraised at \$59,500. This offer of \$59,500 was accepted by the owner. The owner will be relocated, the improvements will be removed and the site utilized for widening Pawnee, placement of the sidewalk and landscaping.

Financial Considerations: The funding source for the project is General Obligation bonds and Federal monies. A budget of \$95,500 is requested. This includes \$59,500 for the acquisition, \$5,000 for demolition, \$30,000 for relocation and \$1,000 for title work and closing costs.

Legal Considerations: The Law Department has approved the contract as to form.

Recommendation/Action: It is recommended that 1) The City Council approve the budget and 2) Authorize all necessary signatures.

### **Agenda Item No. 10b**

CITY OF WICHITA  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0587

TO: Mayor and City Council Members

SUBJECT: Acquisition of 2348 South Laura Street for Pawnee Widening  
Improvement Project from Washington to Hydraulic (District III)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On October 21, 2003, the City Council approved the improvement and widening of Pawnee from Washington to Hydraulic. The project will require partial or total acquisition of 21 parcels, of which 15 are single-family residences. The 9th residence of the 15 required residential acquisitions is a 1,350 square foot single-family residence at 2348 South Laura Street, northeast corner of East Pawnee and South Laura. The property has 3 bedrooms, 2 bathrooms and consists of frame construction. The property is owner-occupied.

Analysis: The property was appraised at \$81,500. This offer of \$81,500 was accepted by the owner. The owner and family will be relocated, the improvements will be removed and the site utilized for widening Pawnee, placement of the sidewalk and landscaping.

Financial Considerations: The funding source for the project is General Obligation bonds and Federal monies. A budget of \$130,000 is requested. This includes \$81,500 for the acquisition, \$5,000 for demolition, \$42,500 for relocation and \$1,000 for title work and closing costs.

Legal Considerations: The Law Department has approved the contract as to form.

Recommendation/Action: It is recommended that 1) The City Council approve the budget and 2) Authorize all necessary signatures.

### **Agenda Item No. 10c**

CITY OF WICHITA  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0588

TO: Mayor and City Council Members

SUBJECT: Acquisition of 2348 South Lulu Street for Pawnee Widening Improvement Project from Washington to Hydraulic (District III)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On October 21, 2003, the City Council approved the improvement and widening of Pawnee from Washington to Hydraulic. The project will require partial or total acquisition of 21 parcels, of which 15 are single-family residences. The 8th residence of the 15 required residential acquisitions is a 816 square foot single-family residence at 2348 South Lulu Street, northeast corner of East Pawnee and South Lulu. The property has 2 bedrooms, 1 bathroom and consists of frame construction. The property is owner-occupied.

Analysis: The property was appraised at \$58,200. This offer of \$58,200 was accepted by the owner. The owner will be relocated, the improvements will be removed and the site utilized for widening Pawnee, placement of the sidewalk and landscaping.

Financial Considerations: The funding source for the project is General Obligation bonds and Federal monies. A budget of \$94,200 is requested. This includes \$58,200 for the acquisition, \$5,000 for demolition, \$30,000 for relocation and \$1,000 for title work and closing costs.

Legal Considerations: The Law Department has approved the contract as to form.

Recommendation/Action: It is recommended that 1) The City Council approve the budget and 2) Authorize all necessary signatures.

**Agenda Item No. 10d**

CITY OF WICHITA  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0589

TO: Mayor and City Council Members

SUBJECT: Acquisition of Easement for Improving 45th Street South, west of Hydraulic (District III)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: The City Council has approved the improvement of 45th Street South from Hydraulic west to Lulu. This approval was generated by a petition signed by more than half of the affected property owners and requested that the improvements be constructed and paid for via an assessment district.

Analysis: The permanent easement contains 6,600 square feet. The owner has agreed to grant the City the easement over and upon this parcel for \$11,000 (\$ 1.67 per square foot).

Financial Considerations: A budget of \$11,000 is requested for the acquisition. The cost of the acquisition will be included in the assessment district.

Legal Considerations: The Law Department has approved the easement as to form.

Recommendation/Action: It is recommended that the City Council approve the budget and the Easement and, and authorize necessary signatures.

### **Agenda Item No. 11**

City of Wichita  
City Council Meeting  
June 14, 2005

Agenda Report No. 05-0590

TO: Mayor and City Council

SUBJECT: Settlement of Litigation -- Case No. 03 CV 2854 (Dist. V)

INITIATED BY: Law Department

AGENDA: Consent

Recommendation: Adopt the Charter Ordinance providing the City with authority to provide sanitary sewer service to persons within the city limits of the City of Maize; to construct such improvements; and to establish improvement districts and issue special assessment, general obligation bonds of the City of Wichita to pay all or a portion of the costs of such improvements.

Background: In April of this year, the governing body approved a settlement of the lawsuit between the City of Maize and the City of Wichita related to disputed annexations. One portion of that settlement was the establishment of a service area for sanitary sewer service to be

provided by the City of Wichita. Some of this area was within the current city limits of the City of Maize and some is within an area that the two cities agree would be annexed to Maize in the future when eligible.

Analysis: Under existing statutes, the City of Wichita does not have the clear authority to do all the things necessary to extend sanitary sewer service and levy special assessments for all or a portion of the costs of the improvements necessary to provide such service if all or a portion of the properties are within the city limits of another city. By chartering out from the provisions of K.S.A. 13-10,107 and K.S.A. 13-10,109 and providing substitute provisions which do allow for such extension of services and financing the same as under the General Improvement Law (K.S.A. 12-601, et seq.), the City of Wichita will have the ability to carry out the provisions of the settlement agreement.

Financial Considerations: With the adoption of this Charter Ordinance, the City of Wichita will have the ability to extend sanitary sewer service into the City of Maize and to levy special assessments against properties within the City of Maize to finance all or a portion of the costs of such improvements.

Legal Considerations: The Law Department has approved the Charter Ordinance as to form.

Recommendations/Actions: Adopt the Charter Ordinance and place on first reading.

## **Agenda Item No. 12**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0591

TO: Mayor and City Council

SUBJECT: Planeview Water System Improvements (District III)

INITIATED BY: Water & Sewer Department

AGENDA: Consent

Recommendation: Authorize the water system improvements in Planeview.

Background: The 2005 adopted Water Utility Capital Improvement Program provides for improvements to the water system in Planeview. Water mains are being systematically replaced and relocated in sections of Planeview because the mains are old and leak-prone. Replaced water mains are being relocated from backyards into street rights-of-way where maintenance of the mains will be more convenient and less expensive.

Analysis: Authorized improvements include the installation of new consumer lines by a licensed plumber. Some consumer lines are still nonmetered and are charged a flat monthly rate; however, all new consumer lines will be metered. Metering the flat-rate accounts will reduce unaccounted for water, a conservation measure strongly recommended by the State of Kansas. Wichita's Water Conservation Program includes the state's recommendation.

Financial Considerations: Planeview Consumer Lines Improvements (CIP W-70) has a budget of \$100,000 for 2005. In addition, the 2003 Planeview budget has \$66,000 remaining; the 2004 budget has \$99,950 remaining. Consolidating funds into the 2005 budget will allow the remaining work to be completed with no impact on the total CIP budget. The expenditures will be funded from future revenue bonds and/or Water Utility cash reserves.

Legal Considerations: The Resolution has been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council: 1) approve the expenditures for 2005; 2) transfer the remaining 2003 and 2004 budget authority; 3) adopt the Resolution; and 4) authorize the necessary signatures.

### **Agenda Item No. 13**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0592

TO: Mayor and City Council

SUBJECT: Amendment to Interlocal Agreement

INITIATED BY: Wichita Transit

AGENDA: Consent Agenda

Recommendation: Approve the amendment to the Interlocal Agreement with Sedgwick County.

Background: On February 8, 2005, the City Council passed the Interlocal Agreement with Sedgwick County for Federal Transit Administration (FTA) funding in the amount of \$122,950 for public transportation service in the Wichita urbanized area. The amount of funds available for Wichita urbanized area is based on a complex formula involving revenue miles of service, rides provided, service area population, density, etc., of which Sedgwick County is eligible to receive a portion.

Analysis: Due to the increase in demand for public transportation service in the Haysville and Derby areas, Sedgwick County has requested an additional \$25,000 of FTA funding for this year. The funds are available in the FY2005 FTA grant unobligated fund balance. The provision of

these services will benefit both the urbanized area and the City of Wichita, since the services provided are from county to city and vice versa.

Financial Considerations: None

Legal Consideration: The Law Department will prepare the amendment.

Recommendations/Actions: It is recommended that the City Council approve the amendment of the Interlocal Agreement with Sedgwick County for \$25,000.

Amendment to Interlocal Agreement  
CONTRACT AMENDMENT

THIS AGREEMENT made and entered into this \_\_\_\_\_ day of June 2005, by and between the City of Wichita, Kansas, a municipal corporation hereinafter known as "City", and The Board of County Commissioners of Sedgwick County, Kansas, hereinafter known as "County".

WHEREAS, the parties have previously entered into an Interlocal Agreement approved by Council on the 8th day of February, 2005, in which County agreed to provide bus transportation for outlying communities in the Wichita MSA;  
and,

WHEREAS, the parties wish to amend said Agreement.

NOW, THEREFORE, in consideration of the premises, the parties agree as follows:

1. The Interlocal Agreement between the parties approved February 5, 2005, is hereby amended by providing and reaffirming that all its provisions remain in full force and effect, with the exception of the amendments stated herein.
2. The maximum amount to be paid to County for the work under said Interlocal Agreement shall be changed in each occurrence in the original Agreement from \$122,950.00 to \$147,950.00.
3. The additional compensation shall be used to augment the services provided to the cities of Derby and Haysville, Kansas, and the immediately surrounding areas.

IN WITNESS WHEREOF, the parties have set their hands and seals the day and year first above written.

Attest:

\_\_\_\_\_  
Karen Sublett, City Clerk

CITY OF WICHITA, KANSAS

By \_\_\_\_\_  
Carlos Mayans, Mayor

Approved as to form:

Board of County Commissioners of  
Sedgwick County, KS

By \_\_\_\_\_



Gary E. Rebenstorf, Director of Law  
and

Dave Unruh, Chairman  
City Attorney

Approved as to form:

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Richard A. Euson, County Counselor

Amendment to Interlocal Agreement

### **Agenda Item No. 14**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0593

TO: Mayor and City Council

SUBJECT: Resolution Authorizing Section 5309 Grant from Federal Transportation  
Administration (FTA)

INITIATED BY: Wichita Transit

AGENDA: Consent Agenda

Recommendation: Approve resolution authorizing filing of grant application.

Background: The Federal Transportation Administration (FTA) grant application process requires a resolution by the governing body authorizing staff to file grant applications to receive funds and administer the grant's program. The purpose of this resolution is to authorize staff to file for federal funds under Section 5309, which is a discretionary capital investment program, typically for bus and facilities. In FY 2003, Wichita was awarded \$1,180,414 in federal funds for bus replacement and \$393,471 for mini-transfer stations under the Section 5309 program. Section 5309 is an 80 percent federal/20 percent local/state match grant program.

Analysis: Wichita Transit needs to replace five of its older Chance RT-52 buses, which have exceeded their useful life, to further upgrade the bus fleet. There is also a need to offer more amenities to the citizens of Wichita by putting two mini-transfer stations at local shopping centers (Towne West and Towne East). These mini-transfer stations will offer transfer points for buses to the eastern and western parts of Wichita, as well as offer more convenient shopping access for the citizens who need to travel to the shopping malls via the public transit system.

Financial Considerations: The total cost of five replacement buses is \$1,475,552, with the federal portion (80 percent) being \$1,180,414, and the local match (20 percent) of \$295,138 to be funded using a Kansas Department of Transportation (KDOT) grant. The two mini-transfer

stations will total \$492,000, with the federal portion being \$393,471, and the local match being \$98,529, again, to be provided by a KDOT grant.

Legal Consideration: The City's Law Department has reviewed and approved the resolution as to form.

Recommendations/Actions: It is recommended that the City Council approve the resolution and authorize the necessary signatures.

### **Agenda Item No. 15**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0594

TO: Mayor and City Council:

SUBJECT: Kansas Foodbank Warehouse, Inc. Contract Amendment

INITIATED BY: Department of Housing & Community Services

AGENDA: Consent

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Recommendation: Approve the amendment.

Background: On July 1, 2002 the City Council approved the contract to provide CDBG funding in the amount of \$250,000 to assist Kansas Foodbank Warehouse in construction of the new warehouse.

Analysis: The CDBG contract expires June 30, 2005. The Kansas Foodbank Warehouse, Inc. requests to extend the existing contract to June 30, 2006.

A shortfall in private funds to start construction on the warehouse has delayed the project. However, fund raising is on going for the \$3.7 million project, which has received \$2,544,642 in pledges, and of those pledges \$1,495,083 has been received. The Kansas Foodbank has received a Challenge Grant from the Mabee Foundation in the amount of \$775,000 and a grant from the Kresge Foundation is pending for \$400,000 in addition to what has already been pledged.

The CDBG funded activities for demolition, clearance and moving utilities started May 6, 2003. Currently, the buildings have been demolished and site grading has been completed. The balance of \$76,773 of CDBG funds will remain obligated to assist in funding the construction of the warehouse.

Financial Considerations: There is no change in the amount of approved CDBG funding for this project.

Legal Considerations: The Law Department has approved the contract amendment as to form.

Recommendation: It is recommended the City Council approve the contract amendment and authorize all necessary signatures.

FOURTH AMENDMENT TO THE  
CDBG CONTRACT BETWEEN THE CITY OF WICHITA  
AND  
KANSAS FOODBANK WAREHOUSE, INC.

THIS CONTRACT AMENDMENT is executed this 21st day of June 2005 by and between the City of Wichita, Kansas (hereinafter called the City) and Kansas Foodbank Warehouse, Inc., (hereinafter called the Delegate Agency).

WITNESSETH THAT:

WHEREAS, on the 1st day of July, 2002 the above named entities were parties to a contract with the caption as above set out; and

WHEREAS, the above named parties now wish to modify and amend said contract for the purpose of clarifying and amending certain elements of the project;

NOW, THEREFORE, the above named parties hereby agree, covenant and contract that the terms of the original contract dated the 1st day of July, 2002 are hereby reaffirmed and re-executed for and on behalf of these parties, except for the following clarifications, amendments, modifications and changes:

A. SECTION 2. TIME OF PERFORMANCE., is hereby amended to read as follows:

The services of the Delegate Agency shall be undertaken and completed in such sequence as to assure an expeditious completion in light of the purposes of this contract through a period of thirty-six (36) months ending no later than June 30, 2005, unless otherwise extended by the parties.

Contract: Kansas Foodbank Warehouse, Inc.  
June 21, 2005 800204/010140/602412

FOURTH AMENDMENT TO THE CDBG CONTRACT BETWEEN THE CITY OF  
WICHITA  
AND KANSAS FOODBANK WAREHOUSE, INC.

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WITNESSETH THAT:

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Contract: Kansas Foodbank Warehouse, Inc.

### **Agenda Item No. 16**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0595

TO: Mayor and City Council

SUBJECT: Sanitary Sewer Easement 923 E. First (District VI)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the sanitary sewer easement for 923 E. First Street.

Background: While performing a routine sanitary sewer rehabilitation project, it was discovered that there was no sewer connection to the city's sanitary sewer main to serve the property of 923

E. First Street. Further investigation, using a mini-camera from their private cleanout, revealed that the sanitary sewer lateral was tapped into a storm water sewer main in First Street. In 1940, this building was a service station and they were given a permit to drain a service bay to the storm sewer at that time. When bathrooms were installed and when the plumbing was tied together is not known, as there are no records for a sanitary sewer permit or connection in the office of Central Inspection.

Analysis: The property is not adjacent to the city's sanitary sewer main. A new private sewer lateral will need to be constructed across a city-owned parking lot in order to tap to the sanitary sewer main. The attached easement grants the property owner the right to construct and maintain this service line.

Financial Considerations: The cost to construct the lateral will be paid by the property owner.

Legal Considerations: The Legal Department has approved the easement as to form.

Recommendations/Actions: It is recommended that City Council approve the sanitary sewer easement and authorize the necessary signatures.

### **Agenda Item No. 18**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0596

TO: Mayor and City Council Members

SUBJECT: Appeal from an order of the Chief of Police to reclassify Local Liquor License of Our Fantasy at 3201 S. Hillside – District III

INITIATED BY: Wichita Police Department

AGENDA: New Business

Recommendation: Conduct a hearing on the appeal.

Background: City ordinance defines a drinking establishment/restaurant (DER) as a business that is open to the general public, sells liquor by the individual drink and meets one of the following requirements: The business shall derive not less than 50% of its gross revenues from sales of food and beverages for consumption on such premises in a six-month period; or such business shall derive not less than 30% of its gross revenues from sales of food and beverages for consumption on such premises in a six-month period and shall have not less than 70% of the public assembly area of the licensed premises devoted to designated seating for the service of food for consumption on the licensed premises. (See Section 4.04.010(t) of the City Code.)

Minors under the age of 21 years are allowed on the premises of a DE/R but cannot consume alcohol. Any establishment not meeting the above food sales and seating space criteria is classified and licensed as a drinking establishment (DE), and minors under the age of 21 years are prohibited from entering or remaining on the premises.

The City Code also provides that a business licensed as a DE/R maybe reclassified as a DE in the event that the business fails to meet food sales or seating space criteria. Section 4.16.095 (c) of the City Code authorizes the Chief of Police to reclassify any DE/R as a DE if the establishment “fails to provide information showing either the required amount of gross revenues from sales of food or the percentage of floor space devoted to the designated seating according to the floor plan, and the service of food for consumption on the licensed premise”. Subsection 4.16.095 (d) of the City Code provides that an order of reclassification issued by the Chief of Police may be appealed to the City Council within seven days from the date of the order. An appeal from the Chief’s order to the City Council stays the order of reclassification until the matter is resolved by the Council.

Analysis: Our Fantasy, located at 3201 S. Hillside, has been licensed as a DE/R since September 5, 2002. On May 10, 2005, Wichita Police Department detectives sent the owner/manager of Our Fantasy a letter by certified mail requesting information showing that the establishment was in compliance with Section 4.04.010 (t) regarding percentage of food sales. A list requesting specific information necessary for the audit of Our Fantasy revenues was attached. On June 3, 2005, Detective Quinn received the requested audit information, which was sent first-class mail from the accounting firm of Robert W. Howell. Attached to this information was a letter from the accounting firm stating the amount of liquor sales as being \$152,434.72 and the amount of food sales as being \$6,509.88. On calculating the percentage of food sales, it was determined that Our Fantasy food sales amounted to 4.27%.

On June 8, 2005, Chief Williams sent a letter to Ms. Linda Copeland, the licensee for Our Fantasy informing her that the establishment was being reclassified to a DE, due to failure to comply with City ordinance 4.04.010 (t).

Financial Consideration: None

Legal Consideration: If the City Council upholds the decision of the Chief, the licensee has the further option of appealing to the district court, pursuant to state statute. Such an appeal would not stay the order of reclassification.

Recommendation/Action: Conduct a hearing of the licensee’s appeal and issued an order either upholding or overturning the same.

## **Agenda Item No. 19**

City of Wichita  
City Council Meeting

June 21, 2005

Agenda Report No. 05-0597

TO: Mayor and City Council

SUBJECT: Public Hearing and Request for Letter of Intent for Industrial Revenue Bonds (U.S. Postal Service, Remote and Coding) (District III)

INITIATED BY: City Manager's Office

AGENDA: New Business

Recommendation: Close the public hearing, approve the Letter of Intent for Industrial Revenue Bonds and the Forgivable Loan Agreement, and select a bond counsel firm to handle the bond issue.

Background: Since July 2003, City staff and later GWEDC have been working with the U.S. Postal Service to secure the selection of Wichita as the site for a major expansion of its Remote Encoding Centers (RECs). Currently located in a former super market space at 2465 S. Seneca, the Wichita REC employs 176 full-time and 411 part-time personnel, who equate to 338 full-time equivalents (FTEs). The U.S. Postal Service originally opened 55 RECs across the country and has since reduced the number to 16 centers. Additional consolidation is planned, along with the conversion of two RECs into "mega centers." The City, County and State have tentatively offered economic development incentives, which has resulted in the selection of Wichita as one of the mega centers.

The Postal Service has conducted an extensive site search in Wichita and has selected the former Giant department store building at 2601 S. Oliver for its new Wichita REC. The property is controlled by local real estate developers Herb Krumsick and Steven Barrett. Doing business as SLK, LLC and SRB Kansas, LLC, the developers will renovate the building and lease 96,000 square feet to the Postal Service for an initial term of 10 years. HLK, LLC and SRB Kansas, LLC, on behalf of the U.S. Postal Service, is requesting the issuance of a one-year Letter of Intent for Industrial Revenue Bonds (IRBs) in an amount not to exceed \$6,130,000. The developers and the Postal Service are also requesting the City Council's approval of a partial five-year tax exemption on IRB bond-financed property and a second five-year exemption subject to City Council review and approval.

Analysis: The US Postal Service has the responsibility to maintain universal service, improve service quality, and hold postage rate increases to levels commensurate with inflation. In concert with this mission, the Postal Services' Remote Encoding Center in Wichita has the responsibility to provide remote electronic data keying, to obtain quality bar codes for various mail product lines in support of mail processing facilities throughout the United States. As a result of the opening of the mega center on South Oliver, the existing 338 FTEs will be retained and an additional 647 FTEs will be hired, comprised of 337 full-time and 786 part-time employees, at average wages of \$18 per hour. It is anticipated that the increase in employment at this location will help to revitalize the Pawnee and Oliver area.

The proposed economic development incentive package includes the following state and local incentives:

State of Kansas	\$1,000,000	SKILL Grant (Reimbursable Job Training)
350,000		KEIOF (Forgivable Loan)
125,000		MPI Grant (Cash for non-training project costs)
City of Wichita	\$813,120	IRB Tax Abatement (based on renovation only)
75,000		Forgivable Loan
Sedgwick County	\$75,000	Forgivable Loan

IRB Bond proceeds will be used to finance the cost of acquiring and improving the former Giant building in order to qualify the property for tax exemption under state law. The developers will continue to pay taxes, or payments-in-lieu-of-taxes, based on the pre-renovation value of the property. An analysis of the uses of project funds is:

Acquisition of Facility	\$2,600,000	
Construction and Improvements to facility	3,500,000	
Cost of Issuance		30,000

Total Cost of Project: \$6,130,000

The developers plan to privately place the bonds with a financial institution with which they each have a pre-existing lending relationship. The developers agree to comply with the City's requirements contained in the Letter of Intent, including "claw back" provisions. The developers have selected Key Construction to serve as general contractor, without first advertising in the Wichita Eagle for participation by economically disadvantaged business enterprises, and renovation work has already begun. Approval of the Letter of intent will presume the waiver of this requirement.

In addition to the IRBs and property tax abatement, the proposed incentive package includes a \$75,000 forgivable loan to the U.S. Postal Service, to be matched by Sedgwick County. Under the terms of the forgivable loan agreement, the funds may be used for any project-related purchase. The Postal Service agrees to increase its employment at the Wichita REC to at least 985 FTEs by the end of five years, or repay a proportional amount based on the shortfall in employment. If the Wichita REC is closed during the term of the agreement, the Postal Service will be required to repay the entire loan amount, at interest.

A cost/benefit analysis has been conducted by Wichita State University's Center for Economic Development and Business Research, using the existing State of Kansas fiscal and economic impact model. The resulting cost/benefit ratios are as follows:

City 2.77 to one  
County 1.90 to one



USD 259      1.46 to one  
State   7.32 to one

Financial Considerations: The developers agree to pay all costs of issuing the bonds and the City's \$2,500 annual IRB administrative fee for the term of the bonds. Under the City's Economic Development Incentive Policy, the project qualifies for a five-plus-five-year tax exemption on property purchased with bond proceeds, based on creation of 647 new jobs, investment of \$6.1 million and average wages that exceed the average for this type of business.

The developers have agreed to pay taxes, or payments-in-lieu-of-taxes, based on the current property value. Based on information from the County Appraisers office, the 2004 value of the land and building structure was \$1,131,150. Current real estate taxes are estimated to be \$32,064. Assuming an as-built valuation of \$4 million, property taxes would be \$113,387. The exemption is therefore worth \$81,313 per year.

Legal Considerations: Bond documents needed for the issuance of bonds will be prepared by a bond counsel firm to be selected by the City, as the City's regular contract bond counsel has existing attorney/client relationships with the principal of each developer. The City Attorney's Office will review and approve the form of the Forgivable Loan Agreement, and all bond documents prior to the issuance of any bonds.

Recommendations/Actions: It is recommended that the City Council close the public hearing and:

- approve a Letter of Intent to HLK, LLC and SRB Kansas, LLC for Industrial Revenue Bonds in an amount not-to-exceed \$6,130,000, subject to the Letter of Intent conditions, for a term of one-year;
- approve a tax abatement based on the value added by renovation of bond-financed property for an initial five-year period plus an additional five years following City Council review;
- approve the Forgivable Loan Agreement with the U.S. Postal Service in the amount of \$75,000;
- select a bond counsel firm to handle issuance of the bonds; and
- authorize necessary signatures.

## **Agenda Item No. 20**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-598

TO: Mayor and City Council

SUBJECT: Public Hearing, Ratification and Extension of the Letter of Intent for Industrial Revenue Bonds (Genesis Health Clubs) (District V & VI)

INITIATED BY: City Manager's Office

AGENDA: New Business

RECOMMENDATION: It is recommended that the City Council close the public hearing, ratify the Letter of Intent for Genesis Health Clubs for Industrial Revenue Bonds and extend the Letter of Intent to June 21, 2007.

BACKGROUND: On July 13, 2004 the City Council approved the issuance of a one-year letter of intent for industrial revenue bonds ("IRBs") for Genesis Health Clubs ("Genesis") in an amount not to exceed \$11,850,000. Bond proceeds are to be used to finance the cost of acquiring, constructing and equipping two new health club facilities in west Wichita, one at 3725 W. 13th and one at the northwest corner of 29th Street North & Maize Road, and to expand its existing health club at 854 N. Socora. The City Council also granted a 50% five-year tax exemption on bond-financed property, plus a second five-year exemption upon City Council review and approval. Genesis has committed to add 100 new employees to its Wichita workforce within ten years.

ANALYSIS: During the original proceedings for approval of the letter of intent, a necessary notice letter to U.S.D. No. 266 (Maize School District) was inadvertently omitted. Consequently, it is necessary to repeat the public hearing and ratify the letter of intent, now that proper notices have been given. Concurrently, the applicant has requested that the letter of intent be extended into 2007, due in large part to construction delays tied to regulatory wetlands issues impacting the Maize Road project site.

In addition, the required cost-benefit analysis failed to consider the fiscal impact of the project in USD 266 school district. The analysis has been repeated by Wichita State University's Center for Economic Development and Business Research to include USD 266 and the results are as follows:

City	3.35
County	2.25
USD 259	1.87
USD 266	1.96
State	11.21

FINANCIAL CONSIDERATIONS: There is no financial impact on the City resulting from the requested extension.

LEGAL CONSIDERATIONS: A publication notice and notice letters to Sedgwick County, U.S.D. No. 259 and U.S.D. No. 266 have been prepared, published and sent by Bond Counsel, and a vote to ratify the letter of intent after the public hearing will cure the procedural infirmities in the letter of intent.

RECOMMENDATIONS/ACTIONS: It is recommended that the City Council close the public hearing, ratify the Letter of Intent for Genesis Health Clubs for Industrial Revenue Bonds in an amount not-to-exceed \$11,850,000 and extend the Letter of Intent to June 21, 2007.

(Published in The Wichita Eagle, June 14, 2005)

NOTICE OF PUBLIC HEARING FOR  
ISSUANCE OF TAXABLE INDUSTRIAL REVENUE BONDS AND  
GRANTING AN AD VALOREM TAX ABATEMENT  
BY THE CITY OF WICHITA, KANSAS

Public notice is hereby given, pursuant to K.S.A. 12-1749d and K.S.A. 12-1744e, that the governing body of the City of Wichita, Kansas, (the "City"), will conduct a public hearing in connection with the proposed issuance, in one or more series, of not to exceed \$11,850,000 principal amount of its taxable industrial revenue bonds (the "Bonds") under the authority of K.S.A. 12-1740 et seq., as well as an accompanying ad valorem property tax exemption for the property purchased with the proceeds of the Bonds. The public hearing will be held on Tuesday, June 21, 2005, at 9:00 A.M., or as soon thereafter as possible, in the City Council Chambers at City Hall, 455 N. Main, Wichita, Kansas 67202. The Bonds are proposed to be issued by the City for the purpose of paying the costs of (i) acquiring, purchasing, constructing, furnishing and equipping certain improvements to an existing health club facility located at 854 N. Socora in the City of Wichita (the "North Socora Project") and (ii) acquiring, purchasing, constructing, furnishing and equipping a replacement health club facility located at or about 3725 W. 13th Street in the City of Wichita, Kansas (the "West 13th Project") both totaling an estimated amount of \$3,550,000; and (iii) acquiring, purchasing, constructing, furnishing and equipping a new health club facility located on the northwest corner of 29th and Maize Road in the City of Wichita, Kansas (the "Maize Road Project") in an estimated amount of \$8,300,000. The North Socora Project, West 13th Project and Maize Road Project (collectively the "Project") will be leased to Genesis Health Clubs Management, LLC or its affiliates.

A copy of this notice and the letter of intent indicating the City's intent to issue such Bonds is on file in the office of the City Clerk and available for public inspection during normal business hours. In the event said Bonds are not ultimately issued or said tax exemption is not ultimately put into effect for any reason, the City shall not be deemed to have assumed or incurred any liability or obligation to Genesis Health Clubs Management, LLC, or any other party by virtue of any proceedings or actions taken in connection therewith.

All persons having an interest in this matter will be given an opportunity to be heard at the time and place specified.

The governing body of the City will not take any action, authorizing the issuance of such Bonds or approving the accompanying tax abatement until the passage of seven (7) days from the date this Notice is published in the official newspaper of the City of Wichita, Kansas, and until said public hearing is concluded.

CITY OF WICHITA, KANSAS

By: /s/ Karen Sublett, City Clerk

Sedgwick County Clerk  
Sedgwick County Courthouse  
525 North Main, Suite 211  
Wichita, Kansas 67203

Clerk of the Board of Education  
of Unified School District #259  
217 North Water  
Wichita, Kansas 67202

Clerk of the Board of Education  
of Unified School District #266  
201 S. Park  
Maize, Kansas 67101

Re: Proposed City of Wichita, Kansas  
Taxable Industrial Revenue Bonds  
(Genesis Health Clubs Management, LLC)

Ladies and Gentlemen:

This is to notify you pursuant to K.S.A. 12-1749c and K.S.A. 12-1749d, that at its regular meeting at 9:00 a.m. on June 21, 2005, at City Hall, 455 N. Main, Wichita, Kansas, the governing body of the City will consider for public discussion the issuance of not to exceed \$11,850,000 principal amount of Taxable Industrial Revenue Bonds under K.S.A. 12-1740 et seq., as well as an accompanying ad valorem property tax exemption for the property purchased with the proceeds of said Bonds. The property to be purchased with the proceeds of said Bonds will be leased to Genesis Health Clubs Management, LLC or its affiliates and will be located (i) at 854 N. Socora in the City of Wichita and (ii) at or about 3725 W. 13th Street in the City of Wichita (together totaling an estimated \$3,550,000), all within the territorial boundaries of Sedgwick County, Kansas, and Unified School District No. 259, Wichita, Kansas and (iii) at the northwest corner of 29th and Maize Road (estimated at \$8,300,000) the “in the City of Wichita, Kansas within the territorial boundaries of Sedgwick County, Kansas, and Unified School District No. 266, Maize, Kansas.

Dated this 14th day of June, 2005.

Karen Sublett, City Clerk

**Agenda Item No. 21**

City of Wichita

City Council Meeting  
June 21, 2005

Agenda Report No. 05-0599

TO: Mayor and City Council Members

SUBJECT: 21st Street North Improvement, between Oliver and Woodlawn (District I)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendations: Approve the project.

Background: The 2004-2013 Capital Improvement Program adopted by the City Council includes a project to improve 21st Street North, between Oliver and Woodlawn. District I Advisory Board sponsored a November 1, 2004 neighborhood hearing on the project. The Board voted 8-0 to recommend approval of the project.

Analysis: The project will reconstruct 21st Street, between Oliver and Woodlawn, to provide four through lanes and a center two-way left turn lane. A new storm water sewer will be constructed. The available right-of-way will be landscaped. Construction is planned for 2005.

Financial Considerations: The estimated project cost is \$2,430,000 with \$650,000 paid by the City and \$1,780,000 by Federal Grants administered by the Kansas Department of Transportation. The funding source for the City share is General Obligation Bonds.

Legal Considerations: The Law Department has approved the authorizing Ordinance as to legal form.

Recommendation/Actions: It is recommended that the City Council approve the project, place the Ordinance on First Reading, and authorize the signing of State/Federal agreements as required.

#### Ordinance

21st Street North Improvement, between Oliver and Woodlawn Ordinance.

AN ORDINANCE DECLARING 21ST ST. NORTH, BETWEEN OLIVER AND WOODLAWN (472-84235) TO BE A MAIN TRAFFICWAY WITHIN THE CITY OF WICHITA, KANSAS; DECLARING THE NECESSITY OF AND AUTHORIZING CERTAIN IMPROVEMENTS TO SAID MAIN TRAFFICWAY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS, THE ESTIMATED COSTS THEREOF, AND THE MANNER OF PAYMENT OF SAME.

WHEREAS, K.S.A. 12-685 provides that the governing body of any city shall have the power to designate and establish by ordinance any existing or proposed street, boulevard, avenue, or part thereof to be a main trafficway, the main function of which is the movement of through traffic between areas of concentrated activity within the city, and

WHEREAS, K.S.A. 12-687 provides that the governing body of any city shall have the power to improve or reimprove or cause to be improved or reimproved, any main trafficway or trafficway connection designated and established under the provisions of K.S.A. 12-685 et seq., and

WHEREAS, K.S.A. 12-689 provides that all costs of improvements or reimprovements authorized under the provisions of K.S.A. 12-687, including acquisition of right-of-way, engineering costs, and all other costs properly attributable to such projects, shall be paid by the city at large from the general improvement fund, general revenue fund, internal improvement fund, or any other fund or funds available for such purpose or by the issuance of general improvement bonds.

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. 21st. St. North, between Oliver and Woodlawn (472-84235) in the City of Wichita, Kansas is hereby designated and established as a main trafficway, the primary function of which is the movement of through traffic between areas of concentrated activity within the City, said designation made under the authority of K.S.A. 12-685.

SECTION 2. It is hereby deemed and declared to be necessary by the governing body of the City of Wichita, Kansas, to make improvements to 21st St. North, between Oliver and Woodlawn (472-84235) in the following particulars:

The design, construction of a roadway, acquisition of right-of-way, relocation of utilities, installation of traffic signals, and landscaping, as necessary for a major traffic facility.

SECTION 3. The costs of the construction of the above described improvements is estimated to be Two Million Four Hundred Thirty Thousand Dollars (\$2,430,000) exclusive of the cost of interest on borrowed money, with \$650,000 paid by the City of Wichita and \$1,780,000 paid by Federal Transportation Grants. Said City share, when ascertained, shall be borne by the City of Wichita at large by the issuance of General Obligation Bonds under the authority of K.S.A. 12-689.

SECTION 5. The above described main trafficway improvements shall be made in accordance with the Plans and Specifications prepared under the direction of the City Engineer of the City of Wichita and approved by the governing body of the City of Wichita, Kansas. Said plans and specifications are to be placed on file in the office of the City Engineer.

SECTION 6. Be it further ordained that the improvements described herein are hereby authorized under the provisions of K.S.A. 12-685 et seq.

SECTION 7. That the City Clerk shall make proper publication of this ordinance, which shall be published once in the official City paper and which shall be effective from and after said publication.

21st Street North Improvement, between Oliver and Woodlawn (District I)

## **Agenda Item No. 22**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-600

TO: Mayor and City Council Members

SUBJECT: Contract for preparation of the Arena Neighborhood Redevelopment Plan.  
(District VI)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: New Business

Recommendation: (1) Approve the selection of Gould Evans to undertake the preparation of the Arena Neighborhood Redevelopment Plan; (2) authorize staff to negotiate with Gould Evans a not-to-exceed contract of \$250,000 to perform the work; and (3) authorize the appropriate signatures.

Background: The recent Visioneering Wichita initiative has identified the strategy of “making downtown a vibrant community and destination point for our residents, visitors and businesses.” The construction of the Sedgwick County arena in Downtown Wichita will be a key implementing piece of this strategy by serving as a catalyst for redevelopment. It is important to plan for the anticipated redevelopment of the area surrounding the arena, concurrent with the siting and design of the new arena.

In April 2005, the City issued an RFP soliciting proposals for consulting services to develop and prepare an arena neighborhood redevelopment plan concurrent with Sedgwick County’s initiative to site, design and construct a new arena in Downtown Wichita. The boundaries of the arena neighborhood redevelopment plan area are: S. Main Street on the west; the central rail corridor on the east; the Kellogg freeway on the south and E. Douglas Street on the north. The new arena will be located somewhere within this area.

The City is partnering with Sedgwick County, as the developer of the arena, and with the Wichita Downtown Development Corporation in formulating the arena neighborhood redevelopment plan. The consultant will view these partners as key members of the consulting “team” throughout the development of the Plan. The preparation of this Plan will also require a community outreach approach that informs and works closely with area stakeholders, residents, landowners, and business representatives to build consensus in the development of the Plan.

A steering committee representing area and city stakeholders will o be appointed within the next month to oversee the development of this plan.

Analysis: A Request for Proposals was prepared and sent to over 50 local, regional and national vendors. A total of six consultant teams responded with a submittal of proposal. Staff provided evaluation summaries of the six proposals received, outlining major strengths and weaknesses in both experience and proposal approach. The City Staff Screening and Selection Committee met to review the six proposals and then short-listed for final interviews three consulting teams with the best proposals submitted. Two Sedgwick County staff members and the Director of the Wichita Downtown Development Corporation were appointed by the City Manager to sit on the City Staff Screening and Selection Committee. Following the consultant interviews, the City Staff Screening and Selection Committee determined using a ranking procedure that the Gould Evans consultant team is best qualified and experienced to undertake this plan. The following summarizes the strengths of the Gould Evans consultant team as identified by the Selection Committee:

- Confident presentation and approach.
- High level of experience and expertise (ERA sub-consultants) in undertaking the critical marketing analysis elements of arena-based redevelopment, especially in the Midwest.
- Strong understanding of the economic interplay between arena development and neighborhood redevelopment.
- Good participation of minority based sub-consultants (ETC Institute and SK Design Group).
- Interactive planning process with the public that includes a broad-based community survey.
- Strong multi-modal transportation analysis sub-consultant (LSA Associates).
- Willingness to negotiate on the contract price and approach.

Financial Considerations: The proposed contract with Gould Evans would be a negotiated contract with a not-to-exceed fee of \$250,000. Funding for this project has been identified in the proposed 2005-2014 Capital Improvement Program.

Legal Considerations: The contract will be reviewed and approved as to form by the Law Department.

Recommendations/Action: It is recommended that the City Council: (1) approve the selection of Gould Evans to undertake the preparation of the Arena Neighborhood Redevelopment Plan; (2) authorize staff to negotiate with Gould Evans a not-to-exceed contract of \$250,000 to perform the work; and (3) authorize the appropriate signatures.



## **Agenda Item No. 23**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0601

TO: Mayor and City Council

SUBJECT: Lease Agreement between the City of Wichita and the Boys and Girls Club of South Central Kansas, Inc. (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: New Business

Recommendations: The City Council should approve the proposed lease agreement with the Boys and Girls Club of South Central Kansas, Inc., to provide a site for a new facility on the former Logopedics Institute site near 21st and Grove and authorize the appropriate signatures.

Background: As reported to the Council at its April 5, 2005, meeting, a consortium of community leaders, calling themselves the 21st Street Committee for Progress, has committed itself to helping the Boys & Girls Club of South Central Kansas to raise the capital for a new facility to replace the current building located at 21st Street North and Grove. They have asked the City to provide a site for the new facility on the former Logopedic Institute site, just north of 21st Street. This City-owned property of approximately 16 acres has been substantially cleared of existing buildings. Cessna maintains two buildings fronting along 21st Street for training and child-care.

At the April 5th meeting, the Council directed staff to enter into negotiations with the Boys & Girls Club on a lease. The product of that negotiation is attached. The Boys & Girls Club is seeking a long-term lease at a nominal rate (one dollar per year).

Analysis: The construction of the Boys & Girls Club will further the goals and strategies outlined in the 21st Street North Corridor Revitalization Plan. Based on two well-attended public meetings and other indicators, it appears to have broad community support. It represents a unique opportunity for the City to leverage the commitment of a dedicated group of citizens to provide services in an area where they are needed and to improve an important community asset.

Financial Considerations: The draft Capital Improvement Program now under review by the City Council allocates \$1,200,000 in GO funds and \$250,000 from utility capital reserves to provide necessary infrastructure improvements in support of this project.

Legal Considerations: The Law Department is reviewing the lease and staff will report on any legal considerations at the Council meeting.

Recommendation/Actions: It is recommended that the City Council approve the proposed lease agreement with the Boys and Girls Club of South Central Kansas, Inc., and authorize the appropriate signatures.

## **Agenda Item No. 24**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0602

TO: Mayor and City Council

SUBJECT: Lease Agreement between the City of Wichita and TOP School North Charitable Foundation (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: New Business

Recommendations: The City Council should approve the proposed lease agreement with The Opportunity Project (TOP) to provide a site for a new facility on the former Logopedics Institute site near 21st and Grove and authorize the appropriate signatures.

Background: As reported to the Council at its April 5, 2005, meeting, TOP is interested in building a new facility on the former Logopedic Institute site, just north of 21st Street. This City-owned property of approximately 16 acres has been substantially cleared of existing buildings. Cessna maintains two buildings fronting along 21st Street for training and child-care.

At the April 5th meeting, the Council directed staff to enter into negotiations with TOP on a lease. The product of that negotiation is attached. TOP is seeking a long-term lease at a nominal rate (one dollar per year).

Analysis: The construction of the new TOP facility will further the goals and strategies outlined in the 21st Street North Corridor Revitalization Plan. Based on two well-attended public meetings and other indicators, it appears to have broad community support. It represents a unique opportunity for the City to leverage the commitment of a local foundation to provide services in an area where they are needed and to improve an important community asset.

Financial Considerations: The draft Capital Improvement Program now under review by the City Council allocates \$1,200,000 in GO funds and \$250,000 from utility capital reserves to provide

necessary infrastructure improvements in support of this project.

Legal Considerations: The Law Department is reviewing the lease and staff will report on any legal considerations at the Council meeting.

Recommendation/Actions: It is recommended that the City Council approve the proposed lease agreement with the TOP School North Charitable Foundation and authorize the appropriate signatures.

## **Agenda Item No. 25**

City of Wichita  
City Council Meeting  
June 21st, 2005

Agenda Report No. 05-0603

TO: Mayor and City Council

SUBJECT: EMSS and Performance Management Enhancements

INITIATED BY: Fire Department

AGENDA: New Business

Recommendation: Approve the proposed EMSS Enhancements.

Background: On November 4, 2003, the City Council approved a new Emergency Medical Services System (EMSS) agreement with Sedgwick County. On January 7th, 2004, the Fire Department presented a proposal to enhance EMSS services, in anticipation of the implementation of the new Emergency Medical Services System, (EMSS). At that time, the City Council deferred action until a new Medical Director was hired and in place, and needs could be more fully defined. The new Medical Director was hired in October of 2004, and is prepared to initiate medical training programs based on the collaboration of participating EMSS agencies.

Analysis: For the past months, Fire Department staff have met with the Medical Director and other stakeholders in developing a proposal for training and technology improvements. The plan includes the addition of two new Medical Training Officer (MTO) positions, one new Fire Training Officer, and funding for dedicated technology support. The new medical training officers, will supplement the one currently existing position to meet the immediate needs of the EMSS Medical Director. These three positions (one existing and two new) will provide for a desired 6:1 student to instructor ratio. The Fire Training Officer will be utilized full time to provide recruit and in-service training to Fire Department staff as required. Currently, there are no dedicated recruit training staff; trainers are re-allocated from the Operations Division, which

creates overtime pay issues. The last component of the plan is to enhance support on GIS analysis. This support will significantly improve the ability of fire staff to evaluate the effectiveness of emergency services deployment.

Financial Considerations: The 2005 Adopted budget includes \$300,730 in 2005 and \$306,730 in 2006 to fund proposed EMSS enhancements. The cost of the proposed plan is \$164,630 for 2005 and \$174,650 in 2006.

Legal Considerations: None.

Recommendations/Actions: Approve the additional positions and any necessary budget adjustments.

## **Agenda Item No. 26**

CITY OF WICHITA  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0604

TO: Mayor and City Council Members

SUBJECT: Amendments to Section 5.88.010, 5.88.020, 5.88.030, 5.89.020 and 5.89.030 and repeal of Sections 3.08.050, 5.88.015, and 5.89.100 of the Code of the City of Wichita regarding Firearms.

INITIATED BY: Law Department

AGENDA: New Business

Recommendation: Place the ordinance on first reading.

Background: House Substitute for Senate Bill No. 195 was passed by the legislature during the 2005 legislative session. This Bill prohibits a municipality from passing ordinances which regulate the purchase, transfer, ownership, storage or transporting of firearms or ammunition, unless specifically permitted by state law. This bill allows a municipality to require that a firearm, when being transported, be within a container that completely encloses the firearm. The City's current ordinance only requires that a firearm transported in a vehicle be unloaded. The bill also allows a municipality to adopt ordinances prohibiting a person from carrying any firearm in any courtroom or City Hall. Currently, this is not specifically regulated by ordinance.

The bill also mandates changes to the manner in which firearms are forfeited. The bill allows a firearm to be destroyed upon order by the trial court, forfeited to the law enforcement agency seizing the weapon for use within the agency, or sold or traded by the law enforcement agency to a properly licensed federal firearms dealer. The law also allows the firearms be forfeited to

the Kansas Bureau of Investigation for law enforcement, testing, comparison or destruction by the Kansas Bureau of Investigation forensic laboratory. If weapons are sold, as authorized by this bill, then the proceeds of the sale shall be credited to the asset seizure and forfeiture fund of the seizing agency. Currently, any proceeds received are deposited in the general fund for law enforcement purposes.

Lastly, the bill voids current city ordinances relating to seller regulation, background checks, prohibition of large-capacity magazines, waiting periods for the purchase of weapons and ordinances regarding the negligent storage of firearms.

Analysis: It is necessary to amend city ordinances to conform with the mandates found within House Substitute for Senate Bill No. 195. Without approving the transportation amendment, the current city ordinance on transporting firearms would become less restrictive and in some instances in conflict with the provisions of this bill. The amendments also except law enforcement and retired law enforcement officers from the requirements of the ordinance.

Financial Considerations: The elimination of the City's seller licensing and background check requirements will result in the elimination of \$9,700 budgeted annual revenue, but should also result in an offsetting reduction in staff and administrative costs.

Legal Considerations: The amendments have been prepared and approved as to form by the Law Department.

Recommendations/Actions: Place the Ordinance on first reading.

#### ORDINANCE

Amendments to Section 5.88.010, 5.88.020, 5.88.030, 5.89.020 and 5.89.030 and repeal of Sections 3.08.050, 5.88.015, and 5.89.100 of the Code of the City of Wichita regarding Firearms.

AN ORDINANCE AMENDING SECTIONS 5.88.010, 5.88.020, 5.88.030, AND 5.89.020 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO FIREARMS, SALES PERMITS AND DEALER LICENSES AND REPEALING THE ORIGINALS OF SECTIONS 3.08.050, 5.88.010, 5.88.015, 5.88.020, 5.89.030, 5.89.020, 5.89.030, AND 5.89.100 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:  
SECTION 1. 5.88.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Unlawful use of weapons. (1) Unlawful use of a weapon is knowingly:

(a) Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sandclub, metal knuckles or throwing star, or any knife, commonly referred to as a switch-blade, which, having the appearance of a pocket knife, also has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or by other mechanical contrivance, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement;

- (b) Carrying concealed on one's person, or possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slingshot, nightstick, nun-chucks, sap gloves, tomahawk, dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly instrument of like character, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife or a dangerous or deadly weapon or instrument;
- (c) Carrying unconcealed on one's person or in any vehicle under one's immediate control, with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slingshot, nightstick, nunchucks, sap gloves, tomahawk, dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly instrument of like character, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife or a dangerous or deadly weapon or instrument;
- (d) Carrying any pistol, revolver or other firearm concealed on one's person except when on one's land or in one's abode or fixed place of business;
- (e) Carrying on one's person any unconcealed, loaded firearm, except when on one's land or in one's abode or fixed place of business;
- (f) Carrying in any vehicle under one's immediate control, any loaded firearm, except when on one's land or in one's abode or fixed place of business;
- (g) Carrying in any air, land, or water vehicle an unloaded firearm that is not encased in a container which completely encloses the firearm;
- (h) Carrying a loaded or unloaded firearm in a courtroom or within City Hall.
- (i) Drawing a pistol, revolver, knife or any other deadly weapon upon any person.
- (j) As used in this section, "throwing star" means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond or other geometric shape, manufactured for use as a weapon for throwing.

(2) Subsections (1)(a), (b), (c), (d), (e), (f) (g), (h) and (i) shall not apply to or affect any of the following:

- (a) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
  - (b) Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;
  - (c) Members of the armed services or reserve forces of the United States or the Kansas National Guard while in the performance of their official duty; or
  - (d) Manufacture of, transportation to, or sale of weapons to a person authorized under (a) through (c) of this subsection to possess such weapons.
  - (e) Qualified law enforcement officers or qualified retired law enforcement officers pursuant to the Law Enforcement Officers Safety Act of 2004, 18 U.S.C. 926B and 18 U.S.C. 926C and amendments thereto.
- (3) Subsection (1)(d), (e) and (f) shall not apply to or affect the following:
- (a) Watchmen, while actually engaged in the performance of the duties of their employment;
  - (b) Private detectives licensed by the state to carry the firearm involved while actually engaged in the duties of their employment;

(c) Detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment; or

(d) The State Fire Marshal, the State Fire Marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto.

(e) Special deputy sheriffs described in K.S.A. 2001 Supp. 19-827, and amendments thereto, who have satisfactorily completed the basic course of instruction required for permanent appointment as a part-time law enforcement officer under K.S.A. 74-5607a and amendments thereto.

(4) Subsection (1) (i) shall not apply to or affect historical reenactors and actors when engaged in performances and demonstrations. Provided, however, this subsection shall only apply to those performances and demonstrations which have been approved in advance in writing by the city manager or his designee.

(5) Subsection (1)(a) shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. 5841 et seq. in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor.

(6) It shall be an affirmative defense that the defendant is within an exemption.

(7) Any person who violates any of the provisions of this section within the corporate limits of the city shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed twenty-five hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

(8) In addition to the penalty for violation of any of the provisions of this section, it shall be the duty of the municipal court judge:

(a) To order any weapon seized in connection with such violation which is not a firearm to be forfeited to the city and the same shall be destroyed or caused to be destroyed by the chief of police whenever the weapon is no longer needed for evidence;

(b) To order any weapon seized in connection with such violation which is a firearm, when no longer needed for evidentiary purposes, shall, in the discretion of the trial court, be:

(i) destroyed;

(ii) forfeited to the Wichita police department for use within the police department, for sale to a properly licensed federal firearms dealer or for trading to a properly licensed federal firearms dealer by the police department for other new or used firearms or accessories for the police department's use; or

(iii) Forfeited to the Kansas Bureau of Investigation for law enforcement, testing, comparison or destruction by the Kansas Bureau of Investigation forensic laboratory.

If weapons are sold as authorized above, the proceeds from any such sale shall be credited to the asset seizure and forfeiture fund of the Wichita police department. All transactions involving weapons disposed of under this subsection must have the prior approval of the city manager. All sales of weapons are subject to review by the city council;

(c) Any stolen weapon confiscated in connection with any violation of this section shall be returned to the person entitled to possession, if known, when the same is no longer needed for evidence. All other weapons shall be disposed of as provided in subsections (a) and (b) above.

SECTION 2. Section 5.88.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Unlawful discharge of a firearm, air rifles, pellet guns and BB guns.

(1) It is unlawful for any person to discharge or fire any gun, pistol, air rifle, pellet gun, BB gun or any other firearm within the corporate limits of the city except at any properly licensed shooting gallery or upon a pistol range or at a gun club, either of which shall be approved by the chief of police.

(2) This section shall not apply to law enforcement officers while actually engaged in the performance of such officer's duty.

(3) This section shall not apply to health officers while actually engaged in the performance of such officers duty.

(4) This section shall not apply to historical reenactors and actors when engaged in performances and demonstrations when the powder charge does not exceed thirty grains for pistols, sixty-five grains for long guns and one-quarter pound for cannon, and the gun contains no projectile other than the minimum amount of wadding necessary to hold the powder charge in place. Provided, however, this subsection shall only apply to those performances and demonstrations which have been approved in advance in writing by the city manager or the city managers designee.

(5) Any person who violates any of the provisions of this section is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

(6) In addition to the penalty for the violation of this section, it shall be the duty of the municipal court judge to order any weapon seized in connection with such violation to be forfeited to the city and the same shall be disposed of by the chief of police pursuant to Section 5.88.010(8)."

SECTION 3. Section 5.88.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Air rifles, pellet guns and BB guns--Carrying within the city.

(1) It is unlawful for any person to carry an air rifle, pellet gun or BB gun on the streets, alleys or public places within the corporate limits of the city unless the air rifle, pellet gun or BB gun is dismantled or in a scabbard.

(2) Any person who violates any of the provisions of this section is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

(3) In addition to the penalty for the violation of this section, the municipal court judge may, in his or her discretion, order such air rifle, pellet gun or BB gun forfeited to the city and disposed of pursuant to subsection 5.88.010 (8)."

SECTION 4. Section 5.89.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Possession of a firearm by a minor prohibited--Exceptions.

(a) Unless otherwise specifically provided herein, it shall be unlawful for a minor to possess any firearm within the city of Wichita, except when the minor is in the presence of and under the direct supervision of a parent, stepparent, grandparent, stepgrandparent, or legal guardian.



(b) Any minor who is not in the presence of and under the direct supervision of his or her parent, stepparent, grandparent, stepgrandparent, or legal guardian may only possess a firearm in the city of Wichita under the following circumstances:

1. During a hunter education class held pursuant to K.S.A. 32-920 and conducted by a Kansas hunter education instructor who is certified by the Kansas Department of Wildlife and Parks, provided said possession is under the supervision of the instructor;
2. During a firearms instructional or safety training class taught by an instructor certified by the National Rifle Association or other nationally recognized hunting, target or sports shooting organization, provided said possession is under the supervision of the instructor;
3. While transporting an unloaded firearm to and from an excursion for lawful hunting of game birds or animals, provided:
  - (a) The minor is in possession of a valid hunting license, if said license is required by state or federal law for the purposes of the hunting excursion;
  - (b) The minor is in possession of a valid hunter education certificate issued to said minor;
  - (c) The firearm, during transportation, is unloaded and is stored in a case, scabbard, or other container which completely encloses the firearm.”

SECTION 5. Section 5.89.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Forfeiture of firearms possessed by a minor. Except as provided in Section 5.89.040, any firearm seized in connection with a violation of this chapter shall be disposed of pursuant to Section 5.88.010(8)(a) and (b) of the Code of the City of Wichita.”

SECTION 6. The originals of Sections 5.88.010, 5.88.015, 5.88.020, 5.88.030, 5.89.020, 5.89.030, 5.89.100, and 3.08.050 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 7. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_day of June, 2005.

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Carlos Mayans, Mayor

ATTEST:

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Karen Sublett, City Clerk  
Approved as to Form:

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Gary Rebenstorf  
Director of Law

Amendments to Section 5.88.010, 5.88.020, 5.88.030, 5.89.020 and 5.89.030 and repeal of Sections 3.08.050, 5.88.015, and 5.89.100 of the Code of the City of Wichita regarding Firearms.

## **Agenda Item No. 27**

City of Wichita

City Council Meeting  
June 21, 2005

Agenda Report No. 05-0605

TO: Mayor and City Council Members

SUBJECT: AMENDMENTS TO SECTION 5.42.020 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE CRIME OF GIVING A WORTHLESS CHECK.

INITIATED BY: Law Department

AGENDA: New Business

Recommendation: Place the ordinance amending Section 5.42.020 of the Code of the City of Wichita, on first reading.

Background: Currently, if a person issues a worthless check in an amount less than \$500, the person can be criminally prosecuted for the misdemeanor crime of Giving a Worthless Check. During the 2005 legislative session, the Kansas Legislature expanded misdemeanor jurisdiction over worthless check cases, mandating that any worthless check issued under the amount of \$1,000, is a misdemeanor effective July 1, 2005.

Analysis: The amendment should be passed, in order to comply with the legislative mandate expanding misdemeanor jurisdiction over worthless check cases, pursuant to Senate Bill No. 72.

Financial Considerations: None.

Legal Considerations: The City of Wichita Law Department drafted the amended ordinance and approved it as to form.

Action: Place ordinance on first reading(First Published in The Wichita Eagle on \_\_\_\_\_)

AMENDMENTS TO SECTION 5.42.020 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE CRIME OF GIVING A WORTHLESS CHECK.

#### ORDINANCE

AN ORDINANCE AMENDING SECTION 5.42.020 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE CRIME OF GIVING A WORTHLESS CHECK AND REPEAL OF THE ORIGINAL SECTION 5.42.020.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. 5.42.020 of the Code of the City of Wichita, Kansas, shall read as follows

(1) Giving a worthless check is the making, drawing, issuing, or delivering or causing or directing the making, drawing, issuing or delivering of any check, order or draft on any bank, credit union, savings and loan association or depository for the payment of money or its equivalent with intent to defraud and knowing, at the time of the making, drawing, issuing or delivering of such check, order or draft, that the maker or drawer has no deposit in or credits with the drawee or has not sufficient funds in, or credits with, the drawee for the payment of such check, order or draft in full upon its presentation.

(2) Subsection (1) shall apply if the check, draft or order is drawn for less than one thousand dollars.

(3) In any prosecution against the maker or drawer of a check, order or draft, payment of which has been refused by the drawee on account of insufficient funds, the making, drawing, issuing or delivering of such check shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in, or on deposit with the drawee; (a) unless the maker or drawer pays the holder thereof the amount due thereon and a service charge not exceeding Thirty dollars for each check, within seven days after notice has been given to the maker or drawer that such check, draft or order has not been paid by the drawee; or (b) if a postdated date is placed on the check, order or draft without the knowledge or consent of the payee. As used in this section, the word "notice" includes oral or written notice to the person entitled thereto. Written notice shall be presumed to have been given when deposited as restricted matter in the United States mail, addressed to the person to be given notice at such person's address as it appears on such check, draft or order.

(4) It shall not be a defense to a prosecution under this section that the check, draft or order upon which such prosecution is based:

(a) Was postdated, unless such check, draft or order was presented for payment prior to the posted date; or

(b) Was given to a payee who had knowledge or had been informed when the payee accepted such check, draft or order, that the maker did not have sufficient funds in the hands of the drawee to pay such check, draft or order upon presentation, unless such check, draft or order was presented for payment prior to the date the maker informed the payee there would be sufficient funds.

(5) Penalty. Any person convicted of giving a worthless check is guilty of a misdemeanor and shall be punished by a fine not to exceed two thousand five hundred dollars or by imprisonment for not more than one year or by both such fine and imprisonment.

Section 2. The original of Section 5.42.020 of the Code of the City of Wichita, Kansas, is hereby repealed.

Section 3. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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Carlos Mayans, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Gary Rebenstorf

Director of Law AMENDMENTS TO SECTION 5.42.020 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE CRIME OF GIVING A WORTHLESS CHECK.

**Agenda Item No. 28**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0606

TO: Mayor and City Council

SUBJECT: Environmental Health Department Name Change

INITIATED BY: Environmental Health

AGENDA: New Business

Recommendation: Approve the name change from Environmental Health to Environmental Services.

Background: Prior to restructuring of the Wichita-Sedgwick County Department of Community Health into separate City and County agencies, Environmental Health functioned as a division within the joint agency. Upon separation of the City and County functions, Environmental Health became a City department with responsibility for all City program activities.

Analysis: Activities of the department have continued to evolve, as staff addresses public health and environmental protection concerns, and provides consultative services to other departments and City management. In addition to direct services for citizens and businesses, regulatory activity, and education, the agency has become involved in internal environmental compliance, economic development, and similar internal City service functions. Management believes that "Environmental Services" better conveys the variety of activities conducted, and underscores the priority placed on customer service. The designation of Environmental Health and Environmental Protection divisions within the department maintain the necessary identification of function for partner agencies on the state and federal level.

Financial Considerations: Printed materials will be replaced as existing stocks are exhausted. Minor changes to signage will be made using existing funds, in conjunction with normal maintenance and replacement practices.

Legal Considerations: The Department of Law has drafted the implementing ordinance. Existing statutory references to the agency will apply to the Environmental Services Department.

Recommendations/Action: Approve the implementing ordinance, and authorize the necessary signatures.

## **Agenda Item No. 29**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0607

TO: Mayor and City Council

SUBJECT: ZON2004-00067 – Zone change from “LC” Limited Commercial and “B” Multi-family Residential to “GC” General Commercial. Generally located at the southwest corner of Hydraulic Avenue and 13th Street North. (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-consent)

MAPC Recommendations: Deny (6-4), but rezone the "B" Multi-family Residential zoned lot to "LC" Limited Commercial, to match the rest of the site's "LC" zoning.

MAPD Staff Recommendations: Deny, but rezone the "B" Multi-family Residential zoned lot to "LC" Limited Commercial, to match the rest of the site's "LC" zoning.

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DAB Recommendations: DAB I voted (8-0) to deny the request for "GC" zoning with the Protective Overlay and to deny a Conditional Use for a car sales lot, but rezone the "B" Multi-family Residential zoned lot to "LC" Limited Commercial, to match the rest of the site's "LC" zoning.

Background: The applicant requests a zone change from “LC” Limited Commercial and “B” Multi-family Residential to “GC” General Commercial on Lots 289 – 295, the Granville Park Addition. Lots 289-294 are currently zoned “LC” and Lot 295 is zoned “B”. The subject properties are located on the southwest corner of Hydraulic Avenue and 13th Street North. The applicant proposes redevelopment of the property for used car sales and auto bodywork and

painting. The “GC” zoning district allows outdoor vehicle and equipment sales and auto bodywork and painting.

The subject site currently has a vacant 1,000 square foot gas station building on it. The applicant proposes to build an additional 2,400 square foot building behind it for auto mechanical work, bodywork and painting. The applicant proposes to use the vacant building as office space for both of the proposed uses. The applicant has proposed to enclose the area where the paint and body works will be located with a privacy fence, a 5-foot landscape buffer on its south side where it abuts the American Legion Hall, and on its east and west sides where it is adjacent to residential zoning. The applicant has also proposed to close the entrances onto the site from Pennsylvania Avenue.

East of the subject site and across Hydraulic Avenue are a dentist office, zoned “LC”, and single-family residences, zoned “LC” and “B”. South of the subject site there is American Legion Post 273, zoned “LC”, and single-family residences, zoned “B” and “SF-5” Single-family Residential. West of the subject site, across Pennsylvania Avenue, there is a vacant lot zoned “LC” and single-family residences zoned “SF-5”. North of the subject site, across 13th Street North, there is a car sales lot, a warehouse, a bar and a neighborhood retail strip containing a self-service laundry, barber and beauty shops and some vacant space. All of these developments are zoned “LC”.

Analysis: The applicants had originally requested a zone change to “GC” General Commercial on Lots 289 – 295, the Granville Park Addition, to allow used car sales and an auto body and paint shop. At the January 13, 2005 MAPC meeting, the applicant changed his request to “GC” zoning with a Protective Overlay. The provisions of the proposed Protective Overlay are:

- (1) Allow auto bodywork and painting and outdoor vehicle and equipment sales as the only permitted “GC” uses.
- (2) Enclose the area where the paint and body works would be located with a privacy fence and with a 5-foot landscape buffer on its south side where it abuts the American Legion Hall, and on its east and west sides where it is adjacent to residential zoning.
- (3) Close the entrances onto the site from Pennsylvania Avenue.

Planning Staff made two recommendations:

- (1) Deny the requested “GC” zoning, but rezone the southern most lot (Lot 295) zoned “B” to “LC”, to match the rest of the site’s “LC” zoning. This recommendation was based on the requested zoning not matching the intent and goals of the McAdams Rezoning Ordinance and the McAdams Revitalization Plan.
- (2) If the Planning Commission finds a car sales lot as an appropriate use for this site, rezone the site’s “B” zoned lot (Lot 295) to “LC” Limited Commercial to match the rest of the site’s “LC” zoning and approve a Conditional Use for vehicle sales outdoors, subject to the following conditions:

1. All requirements of Article III, Section III.D.6.x. of the Unified Zoning Code (UZC) shall be met. Any variance from Article III, Section III-D, 6.x of the UZC would require a waiver approved by the Wichita City Council.
2. In addition to uses permitted in the “LC” Limited Commercial district, the site shall be limited to the sales of cars and light trucks. No sale or rental of trailers, vehicles or trucks larger than pick ups. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business.
3. The applicant shall dedicate by separate instrument an additional 10-feet of street right-of-way along the property’s 13th Street North frontage within six months of final approval of the Conditional Use.
4. The applicant shall dedicate by separate instrument complete access control along the site’s Hydraulic Avenue and Pennsylvania Avenue frontages. Where existing access is currently located on these frontages, the applicant shall guarantee the continuation of the curb, per City Standards.
5. No elevated display areas.
6. Parking spaces for employees and customers shall be provided on the property as required by the UZC and in conformance with the standards established by the City Traffic Engineer. The parking spaces shall be marked and designated for employees and customers and shall not be used for display or storage of vehicles for sale, unless an employee drives the vehicle. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business unless additional parking spaces for such businesses are provided per a revised site plan approved by the Planning Director.
7. No outside storage of salvaged vehicles or parts shall be permitted in association with this use.
8. A landscape plan, per the Landscape Ordinance, shall be submitted, including landscaped street yards and a landscape buffer along the south side of the site and the east and west sides where the site is adjacent to residential zoning, which shall be provided and maintained on the property as approved by the Planning Director.
9. A revised site plan reflecting the conditions of approval (including Section III.D.6.x. of the Unified Zoning Code) shall be submitted for approval by the Planning Director within six months of approval of the Conditional Use by the MAPC or governing body, as applicable. The site plan shall include a 6-foot wooden, stockade type fence located on the south side of the site and along the eastern and western portions of the site where it is adjacent to residential zoning, all lighting, including those on the building, the location and size of the office and garage space within the current building and any additional buildings, approved signage and solid screening around the trash receptacle.
10. The site shall be developed in general conformance with the approved site plan and landscape plan. All improvements shown on the approved site plan and landscape plan shall be

completed within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.

11. The site shall be developed and operated in compliance with all federal, state and local rules and regulations.

12. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

During the January 13, 2005 MAPC meeting, the applicant was asked if he would agree to a Conditional Use to allow car sales, but not the auto body and paint shop. The applicant replied no; he wanted both the car sales lot and the auto body and paint shop. A motion was made to defer consideration of the case for 30 days to allow the District Advisory Board (DAB) I to consider whether they wanted to hear this case. A substitute motion was then made to approve the rezoning of the "B" zoned lot to "LC". This motion failed 3-7. The original motion to defer consideration of the case for 30 days to allow DAB I to consider this case was then approved 9-1. No one spoke in opposition to the requested zone change at this MAPC meeting.

DAB I considered this case at their February 7, 2005 meeting. Several members of the public in attendance at the DAB meeting spoke against the requested zoning change to "GC" with the Protective Overlay and against the zone change of the "B" zoned lot to "LC" with a Conditional Use to allow car sales at the site. The members of the public speaking against both of these proposed actions felt they were contrary to the intent and goals of the McAdams Rezoning Ordinance and the McAdams Revitalization Plan. During the meeting, the applicant was asked if it was acceptable to him if the "B" zoned lot was rezoned to "LC" with a Conditional Use to allow car sales at the site, without the whole site being rezoned "GC" to allow the auto body and paint shop. The applicant replied that he wanted both the car sales lot and auto body and paint shop. DAB I voted (8-0) to deny both the requested zoning change to "GC" with the Protective Overlay and against the zone change of the "B" zoned lot to "LC" with a Conditional Use to allow car sales at the site. The DAB voted to rezone the "B" zoned lot to "LC" to match it with the rest of the site's "LC" zoning.

The MAPC reconsidered this case at their February 10, 2005 meeting. At this meeting, one person spoke in opposition to the requested zoning to "GC" with the Protective Overlay to allow the car sales and the auto body and paint shop and against the zone change of the "B" zoned lot to "LC" with a Conditional Use to allow car sales at the site. During the meeting, the applicant again stated that he would not be agreeable to only the rezoning of the "B" zoned lot to "LC" with a Conditional Use to allow car sales at the site. The applicant wanted the "GC" zoning, with the Protective Overlay, allowing both the car sales lot and the auto body and paint shop. The applicant also objected to condition #3 of the proposed Protective Overlay, which is the dedication of 10-foot of right-of-way along the site's 13th Street frontage. A motion was made to deny the request for the "GC" zoning with the Protective Overlay, but to only rezone the "B" zoned lot to "LC" to match the rest of the site's "LC" zoning. The motion failed 3-6. A motion was then made and approved, 6-3, to approve the "GC" zoning with Protective Overlay #154:

(1) Allow auto bodywork and painting and outdoor vehicle and equipment sales as the only permitted "GC" uses.



- (2) Enclose the area where the paint and body works would be located with a privacy fence and with a 5-foot landscape buffer on its south side where it abuts the Legion Hall and on its east and west sides where it is adjacent to residential zoning
- (3) Close the entrances onto the site from Pennsylvania Avenue

Staff has received written protest against the requested zoning change with the protective overlay that represent 21.58% of the protest area. When a 20% or greater protest exists, a zoning change cannot be approved except by at least a  $\frac{3}{4}$  vote of all members of the governing body.

The Wichita City Council considered this request at their May 3, 2005 meeting and voted (7-0) to send it back to the MAPC for reconsideration. During the Council meeting, Councilman Brewer noted that DAB I had recommended rezoning only the south most lot from "B" to "LC", and to deny both the request for "GC" zoning with a protective overlay allowing car sales and an auto body and paint shop on the site, and a Conditional Use for car sales on the site, with "LC" zoning on the southern most lot.

The MAPC voted (6-4) at their May 26, 2005 meeting to rezone Lot 295, the Granville Park Addition from "B" Multi-family Residential to "LC" Limited Commercial, as was recommended by DAB I.

Financial Considerations: None

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Concur with the findings of the MAPC and approve the zone change from "B" Multi-family Residential to "LC" Limited Commercial on Lot 295, the Granville Park Addition and deny the requested zone change from "LC" Limited Commercial to "GC" General Commercial (requires a  $\frac{3}{4}$  vote of all members of the governing body); place the ordinance establishing the zone change on first reading; or
2. Approve the requested "GC" General Commercial zoning with the protective overlay or the Conditional Use allowing car sales with the rezoning of the "B" zoned lot to "LC"(requires a  $\frac{3}{4}$  vote of all members of the governing body); or.
3. Deny the application (simple majority required).

## **ZON2004-67 ORDINANCE**

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS  
OF  
CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE  
AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED  
ZONING

CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

CASE NO. ZON2004-00067

Request for Zone change from “B” Multi-family Residential to “LC” Limited Commercial, on property described as:

Lot 295, the Granville Park Addition to Wichita, Sedgwick County, Kansas. Generally located at the southwest corner of Hydraulic Avenue and 13th Street North.

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

### **Agenda Item No. 30**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0608

TO: Mayor and City Council

SUBJECT: ZON2005-00015 – Zone change from “SF-5” Single-family Residential to “LI” Limited Industrial with a Protective Overlay District to limit permitted uses and provide screening/buffering. Generally located south of 37th Street North and west of Broadway. (District VI)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (non-consent)

MAPC Recommendations: Approve, subject to conditions, vote (9-1).

MAPD Staff Recommendations: Approve, subject to conditions.

DAB Recommendations: Approve, subject to conditions, vote (9-0).

Background: The applicant requests a zone change from “SF-5” Single-Family Residential to “LI” Limited Industrial with a Protective Overlay District to limit permitted uses and provide screening/buffering on a 10.1-acre unplatted tract located south of 37th Street North and west of Broadway. As stated in the attached letter, the applicant proposes that the subject property be limited to the following uses: outdoor storage of concrete products and materials related to the manufacturing of concrete products, and accessory structures and uses related to the storage and/or maintenance of stored materials and products. The applicant also proposes that an eight-foot high concrete/masonry wall be provided along the south and west property lines and that a 50-foot deep landscape buffer with trees planted every twenty feet (including existing trees) be provided along the south and west property lines. The applicant also proposes to permit a bike path to be located through the western portion of the landscape buffer. The applicant proposes to limit the height of stored materials and to provide a maintenance program for limiting blowing dust. Similar conditions also are proposed through a voluntarily offered restrictive covenant for the applicant’s industrially zoned property that is located immediately east of the subject property.

The surrounding area is characterized by a mixture of industrial and residential uses, with the industrial uses primarily located to the east. Most of the properties to the north, south, and west are zoned “SF-5” Single-Family Residential and are developed with single family residences, but are separated from the subject property by drainage ditches on the north and west. Most of the properties to the east are zoned “LI” Limited Industrial and are developed with various industrial uses.

Since adjacent properties have residential zoning, the Unified Zoning Code (UZO) requires screening along the south and west property lines. The proposed eight-foot high concrete/masonry wall meets the UZO screening requirement. The Landscape Ordinance requires landscape buffering along the south and west property lines and a landscaped street yard along the north property line. The proposed 50-foot deep landscape buffer with trees every 20 feet far exceeds the buffering requirements of the Landscape Ordinance.

Analysis: At the DAB meeting on May 2, 2005, several surrounding property owners spoke in opposition to the request and cited concerns that the request was not in keeping with the character of the neighborhood, would be a visual blight on the area, would decrease property values, would generate dust and noise and should be located in an area where industrial uses are already an established use. The DAB voted (9-0) to recommend approval of the request subject to the conditions stated in the attached document. At the MAPC meeting on May 12, 2005, surrounding property owners again spoke in opposition to the request and cited the same concerns as expressed at the DAB meeting. The MAPC voted (9-1) to recommend approval of

the request subject to the conditions stated in the attached document. The MAPC recommendation contains several changes to the conditions of approval recommended by staff and the DAB. The MAPC recommends reducing the landscaped buffer along the south property line from 50 feet to 30 feet, not requiring a doubling of the number of trees or evergreen trees in the landscape buffer, locating the detention pond at the south end of the property and requiring storage of materials to begin at the north end of the property.

Written protest petitions have been received from property owners representing 40.09 percent of the land area within 200 feet of the subject property as well as from numerous other property owners that own land located more than 200 feet from the subject property. Since the area of land owned by protestors exceeds 20 percent of the land area within 200 feet of the subject property, approval of the zone change request will require a three-fourths majority vote of the City Council (6 affirmative votes).

Financial Considerations: None.

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

#### Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the zone change subject to the additional provisions of Protective Overlay District #156; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to the City Council; or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-third majority vote of the City Council on the first hearing.)

#### MAPC RECOMMENDATION

1. The subject property shall be limited to the following uses: (a) Outdoor storage of concrete products and materials related to the manufacturing of concrete products; and (b) Accessory structures and uses related to the storage and/or maintenance of stored materials and products. This condition specifically prohibits the use of the subject property for the following uses: Asphalt or Concrete Plant, Manufacturing, Mining or Quarrying, and/or Rock Crushing.
2. A concrete/masonry wall at least eight feet in height shall be constructed parallel to the south and west property lines of the subject property. Said wall shall be set back a minimum distance of 50 feet from the west property line and 30 feet from the north right-of-way line of 35th Street North.
3. There shall be a 50-foot landscape buffer maintained along the west line of the subject property in conjunction with the solid screening wall. This buffer shall provide the equivalent

of, at minimum, one tree per 20 feet. The existing tree rows may be used to meet the condition of one tree per 20 feet if the existing trees are located on the subject property. Where there are gaps, a double staggered row of a mixture of evergreen and deciduous trees shall be installed with one tree per 40 feet in each row with the planting size of the trees meeting the requirements of the landscape ordinance. The landscape buffer provisions of the Landscape Ordinance shall apply along the south property line.

4. At the time of platting the applicant shall dedicate a 50-foot wide bike path easement along the west line of the subject property.

5. The detention pond required by the plat shall be located at the south end of subject property.

6. Storage of concrete products and materials shall commence at the north end of the subject property and work southwards.

7. A site/landscaping plan for the screening wall and landscape buffer shall be submitted for approval by the Planning Director within 60 days of approval of the zone change request. The subject property shall be developed in general conformance with site/landscaping plan, and all improvements shown on the plan shall be completed prior to use of the subject property for the storage of concrete products.

8. The height of stored concrete products shall be limited to 10 feet within 100 feet of the wall and 15 feet elsewhere on the property.

9. The existing fence, trash, and debris along the south and west property lines shall be removed prior to use of the subject property for the storage of concrete products.

10. Upon development of subject property any blowing dust shall be minimized by routinely spraying water on unpaved surfaces.

11. No off-site or portable signs shall be permitted.

12. At the time of platting the applicant shall submit a No Protest Agreement for the future paving of 35th Street North.

13. The subject property shall be platted within one year but prior to use of the subject property for storage of concrete products. The plat shall include an approved drainage plan that prevents the run-off of any concrete products or materials into the adjacent creek on the west.

14. Within 60 days of approval of the zone change request, a voluntarily-offered restrictive covenant shall be submitted that places requirements A-G as stated in the letter from the applicant's agent dated April 4, 2005 and revised April 14, 2005 on the applicant's existing property to the east.

**STAFF/DAB RECOMMENDATION**

1. The subject property shall be limited to the following uses: (a) Outdoor storage of concrete products and materials related to the manufacturing of concrete products; and (b) Accessory structures and uses related to the storage and/or maintenance of stored materials and products. This condition specifically prohibits the use of the subject property for the following uses: Asphalt or Concrete Plant, Manufacturing, Mining or Quarrying, and/or Rock Crushing.
2. A concrete/masonry wall at least eight feet in height shall be constructed parallel to the south and west property lines of the subject property. Said wall shall be set back a minimum distance of 50 feet from the west property line and from the north right-of-way line of 35th Street North so that the required landscape buffer can be planted between the wall and the property lines.
3. There shall be a 50-foot landscape buffer maintained along the west line of the subject property and in an area from the north right-of-way line of 35th Street North in conjunction with the solid screening wall. This buffer shall provide the equivalent of, at minimum, one tree per 20 feet. The existing tree rows may be used to meet the condition of one tree per 20 feet if the existing trees are located on the subject property. Where there are gaps, a double staggered row of a mixture of evergreen and deciduous trees shall be installed with one tree per 40 feet in each row with the planting size of the trees meeting the requirements of the landscape ordinance.
4. At the time of platting the applicant shall dedicate a 50-foot wide bike path easement along the west line of the subject property.
5. A site/landscaping plan for the screening wall and landscape buffer shall be submitted for approval by the Planning Director within 60 days of approval of the zone change request. The subject property shall be developed in general conformance with site/landscaping plan, and all improvements shown on the plan shall be completed prior to use of the subject property for the storage of concrete products.
6. The height of stored concrete products shall be limited to 10 feet within 100 feet of the wall and 15 feet elsewhere on the property.
7. The existing fence, trash, and debris along the south and west property lines shall be removed prior to use of the subject property for the storage of concrete products.
8. Upon development of subject property any blowing dust shall be minimized by routinely spraying water on unpaved surfaces.
9. No off-site or portable signs shall be permitted.
10. At the time of platting the applicant shall submit a No Protest Agreement for the future paving of 35th Street North.
11. The subject property shall be platted within one year but prior to use of the subject property for storage of concrete products. The plat shall include an approved drainage plan that prevents the run-off of any concrete products or materials into the adjacent creek on the west.

12. Within 60 days of approval of the zone change request, a voluntarily-offered restrictive covenant shall be submitted that places requirements A-G as stated in the letter from the applicant's agent dated April 4, 2005 and revised April 14, 2005 on the applicant's existing property to the east.

#### ZON2005-00015 ORDINANCE

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2005-00015

Zone change from "SF-5" Single-family Residential to "LI" Limited Industrial, on property described as:

A tract of land lying in the Northeast Quarter of Section 32, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at the Northeast corner of the Northwest Quarter of said Northeast Quarter; thence South to the Southeast corner of the Northwest Quarter of said Northeast Quarter; thence West along said South line to center of Old Chisholm Creek (now improved drainage channel); thence Northerly along the center of Old Chisholm Creek (now improved drainage channel) to a point on the North line of said Northeast Quarter; thence East to beginning, except 0.31 acres taken through Floodway Condemnation Case No. 41035 and except for road right-of-way. Generally located south of 37th Street North and west of Broadway.

SUBJECT TO THE PROVISION OF PROTECTIVE OVERLAY DISTRICT #156:

1. The subject property shall be limited to the following uses: (a) Outdoor storage of concrete products and materials related to the manufacturing of concrete products; and (b) Accessory structures and uses related to the storage and/or maintenance of stored materials and products. This condition specifically prohibits the use of the subject property for the following uses: Asphalt or Concrete Plant, Manufacturing, Mining or Quarrying, and/or Rock Crushing.

2. A concrete/masonry wall at least eight feet in height shall be constructed parallel to the south and west property lines of the subject property. Said wall shall be set back a minimum

distance of 50 feet from the west property line and 30 feet from the north right-of-way line of 35th Street North.

3. There shall be a 50-foot landscape buffer maintained along the west line of the subject property in conjunction with the solid screening wall. This buffer shall provide the equivalent of, at minimum, one tree per 20 feet. The existing tree rows may be used to meet the condition of one tree per 20 feet if the existing trees are located on the subject property. Where there are gaps, a double staggered row of a mixture of evergreen and deciduous trees shall be installed with one tree per 40 feet in each row with the planting size of the trees meeting the requirements of the landscape ordinance. The landscape buffer provisions of the Landscape Ordinance shall apply along the south property line.

4. At the time of platting the applicant shall dedicate a 50-foot wide bike path easement along the west line of the subject property.

5. The detention pond required by the plat shall be located at the south end of subject property.

6. Storage of concrete products and materials shall commence at the north end of the subject property and work southwards.

7. A site/landscaping plan for the screening wall and landscape buffer shall be submitted for approval by the Planning Director within 60 days of approval of the zone change request. The subject property shall be developed in general conformance with site/landscaping plan, and all improvements shown on the plan shall be completed prior to use of the subject property for the storage of concrete products.

8. The height of stored concrete products shall be limited to 10 feet within 100 feet of the wall and 15 feet elsewhere on the property.

9. The existing fence, trash, and debris along the south and west property lines shall be removed prior to use of the subject property for the storage of concrete products.

10. Upon development of subject property any blowing dust shall be minimized by routinely spraying water on unpaved surfaces.

11. No off-site or portable signs shall be permitted.

12. At the time of platting the applicant shall submit a No Protest Agreement for the future paving of 35th Street North.

13. The subject property shall be platted within one year but prior to use of the subject property for storage of concrete products. The plat shall include an approved drainage plan that prevents the run-off of any concrete products or materials into the adjacent creek on the west.



14. Within 60 days of approval of the zone change request, a voluntarily-offered restrictive covenant shall be submitted that places requirements A-G as stated in the letter from the applicant's agent dated April 4, 2005 and revised April 14, 2005 on the applicant's existing property to the east.

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

### **Agenda Item No. 31**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0609

TO: Mayor and City Council Members

SUBJECT: SUB 2005-31 -- Plat of Wooded Acres Addition, Located West of Greenwich Road and North of 31st Street South.

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (9-0)

Background: This unplatted site, consisting of one lot on five acres, is located in the County within three miles of Wichita's city limits. The site is zoned Single-Family Residential District.

Analysis: Petitions, 100 percent, and a Certificate of Petitions have been submitted for future sewer and water improvements. County Code Enforcement has approved on-site sewerage facilities.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

Legal Considerations: The Certificate of Petitions will be recorded with the Register of Deeds.

Recommendations/Actions: It is recommended that the City Council approve the documents and plat, authorize the necessary signatures and adopt the Resolutions.

### **Agenda Item No. 32**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0610

TO: Mayor and City Council Members

SUBJECT: SUB 2005-34 -- Plat of The Royal Magnolia Addition, Located on the South Side of 37th North and West of Maize Road. (District V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

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Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (9-0)

Background: This site, consisting of three lots on 16.1 acres, is located within Wichita's city limits. A zone change (PUD 2005-01) from SF-5, Single-family Residential District to PUD, Planned Unit Development has been approved for this site.

Analysis: Petitions, all 100 percent, and a Certificate of Petitions have been submitted for paving, sanitary sewer and water main improvements.

A Cross-lot Drainage Agreement for lots one and three has been provided. To guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings, a Drive Approach Closure Certificate has been submitted. Also, Cross-lot Access Agreement was submitted that permits cross-lot access through lot two for the benefit of lot three.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days. Publication of the Ordinance should be withheld until such time as the plat is recorded with the Register of Deeds.

Legal Considerations: The Certificate of Petitions, Cross-lot Drainage Agreement, Drive Approach Closure Certificate and Cross-lot Access Agreement will be recorded with the Register of Deeds.

Recommendations/Actions: It is recommended that the City Council approve the documents and plat, authorize the necessary signatures, adopt the Resolutions and approve first reading of the Ordinance.

ORDINANCE - SUB 2005-34 -- Plat of The Royal Magnolia Addition-Case No. PUD 2005-01

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. PUD 2005-01

Request for zone change from request from SF-5, Single-Family Residential to PUD, Planned Unit Development, described as follows:

Lots 1-3, Block A, Royal Magnolia Addition, Wichita, Sedgwick County, Kansas.

Generally located on the south side of 37th Street North and west of Maize Road.

SECTION 2. That upon the taking effect of this Ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita-Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

### **Agenda Item No. 33**

City of Wichita

City Council Meeting  
June 21, 2005

Agenda Report No. 05-0611

TO: Mayor and City Council Members

SUBJECT: SUB 2005-11 -- Plat of West 162nd Addition, Located East of 167th Street West and South of Maple. (District V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (11-0)

Background: This unplatted site, consisting of two lots on 2.6 acres, has recently been annexed into Wichita's city limits and is zoned SF-5, Single Family Residential District.

Analysis: Petitions, all 100%, and a Certificate of Petitions have been submitted for sewer and water improvements.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty (30) days.

Legal Considerations: The Certificate of Petitions will be recorded with the Register of Deeds.

Recommendations/Actions: Approve the document and plat, authorize the necessary signatures and adopt the Resolutions.

### **Agenda Item No. 34**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0612

TO: Mayor and City Council

SUBJECT: VAC2005-00019 Request to vacate a portion of a platted street side setback, generally located north of 13th Street North and east of Rock Road, more specifically on the northeast corner of the Crestwood Street and Crestwood Court intersection.  
(District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve

MAPC Recommendation: Approve (Unanimously)

Background: The applicants are requesting consideration to vacate the west 10-feet of the platted 25-foot street side yard setback, along its north 97.50-feet of length. The applicant proposes to build a lap pool and a lap pool enclosure. The Unified Zoning Code has a minimum street side yard setback line of 15-feet in the “SF-5” Single-family Residential zoning district, which is the zoning district that the site is located in. There are no franchised utilities, sewer lines, manholes or water lines in the setback. The Country Place Estates Addition was recorded with the Register of Deeds on March 21, 1979.

Analysis: The MAPC voted (10-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC’s advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Financial Considerations: None

Legal Considerations: A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

BEFORE THE WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION

IN THE MATTER OF THE VACATION OF	)	
A PORTION OF A PLATTED BUILDING	)	
SETBACK LINE	)	
) MAPD CASE NO.	)	
GENERALLY LOCATED	)	VAC2005-00019
NORTH OF 13TH STREET NORTH AND EAST	)	
OF ROCK ROAD, MORE SPECIFICALLY ON THE	)	
NORTHEAST CORNER OF THE CRESTWOOD COURT -	)	
CRESTWOOD STREET INTERSECTION	)	
	)	

VAC2005-00019 PETITION

COMES NOW your petitioner(s), John Dickerson, Stacy Stocker and David Foster, and pray(s) for the vacation of the following described portion of a platted street side yard setback line, to wit:

The north 97.50-feet of the west 10-feet of the platted 25-foot street side setback running parallel to the east lot line of Lot 15, Block 2, Country Place Estates Addition, Wichita, Sedgwick County, Kansas.

1. That the petitioner(s) is/are owner(s) of real property adjacent to and abutting the herein described platted building setback line.
2. That no private rights will be injured or endangered by the vacation of a portion of the platted street side yard building setback line, described herein, and that the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner(s) hereof, the prayer(s) of the petitioner(s) for the vacation of a portion of the platted street side yard building setback line should be granted.

BEFORE THE CITY COUNCIL OF THE  
CITY OF WICHITA, SEDGWICK COUNTY, KANSAS

IN THE MATTER OF THE VACATION OF )  
A PORTION OF A PLATTED BUILDING )  
SETBACK LINE )  
)  
GENERALLY LOCATED ) Case No. VAC2005-00019  
NORTH OF 13TH STREET NORTH AND )  
EAST OF ROCK ROAD, MORE SPECIFICALLY )  
ON THE NORTHEAST CORNER OF THE )  
CRESTWOOD COURT – CRESTWOOD STREET )  
INTERSECTION )  
)  
MORE FULLY DESCRIBED BELOW )

VAC2005-00019 - VACATION ORDER

NOW on this 21st day of June, 2005 comes on for hearing the petition for vacation filed by John Dickerson, Stacy Stocker and David Foster praying for the vacation of the following described portion of a platted street side yard building setback line, to wit:

The north 97.50-feet of the west 10-feet of the platted 25-foot street side setback running parallel to the east lot line of Lot 15, Block 2, Country Place Estates Addition, Wichita, Sedgwick County, Kansas.

The City Council, after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in The Wichita Eagle on May 5, 2005, which was at least 20 days prior to the public hearing.

2. No private rights will be injured or endangered by the vacation of the above described portion of a platted street side yard building setback line, and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

4. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.

5. The vacation of a portion of the platted building setback line described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 21st day of June 2005 ordered that the above described portion of a platted building setback line is hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall certify a copy of this order to the Register of Deeds of Sedgwick County.

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Carlos Mayans, Mayor  
ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Gary Rebenstorf, Director of Law  
VAC2005-00019

Agenda Item No. 35

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0613

TO: Mayor and City Council

SUBJECT: VAC2005-00020 Request to vacate a portion of the platted front setback, generally located along 135th Street West midway between Maple Street and Kellogg Avenue, more specifically on the southeast corner of the 135th Street West and Links Street intersection.

(District V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve

MAPC Recommendation: Approve (Unanimously)

Background: The applicants are requesting consideration to vacate 6-inches of the platted 20-foot front yard setback. Upon purchase of the property, the applicant was required to have a mortgage title survey, which revealed the garage roof encroaching less than a foot into the platted 20-foot front yard setback. To obtain title insurance, the applicant is required to vacate the setback where the encroachment is located. There is a platted 15-foot utility/drainage easement that is within the platted 20-foot set back. There is a sewer line and manhole in the platted 15-foot utility/drainage easement. There are no franchised utilities, sewer lines, manholes or water lines in the platted setback. The Auburn Hills 9th Addition was recorded with the Register of Deeds on March 1, 1999.

Analysis: The MAPC voted (10-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Financial Considerations: None.

Legal Considerations: A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

#### VAC2005-00020 PETITION

BEFORE THE WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION

IN THE MATTER OF THE VACATION OF	)	
A PORTION OF THE PLATTED FRONT SETBACK	)	
	)	
) MAPD CASE NO.		
GENERALLY LOCATED MIDWAY BETWEEN	)	VAC2005-00020
MAPLE STREET AND KELLOGG AVENUE,	)	
ON THE SOUTHEAST CORNER OF THE	)	
LINK STREET – 135TH STREET WEST	)	



INTERSECTION )

COMES NOW your petitioner(s), Icer S. Vaughn and pray(s) for the vacation of the following described portion of a platted front setback, to wit:

The west 6-inches of the platted 20-foot front setback running parallel to the east lot line of Lot 1, Block A, the Auburn Hills 9th Addition, Wichita, Sedgwick County, Kansas.

1. That the petitioner(s) is/are owner(s) of real property adjacent to and abutting the herein described a portion of the platted front setback.
2. That no private rights will be injured or endangered by the vacation of the portion of the platted front setback, described herein, and that the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner(s) hereof, the prayer(s) of the petitioner(s) for the vacation a portion of the platted front setback should be granted.

WHEREFORE, petitioner(s) pray(s) that this petition be set for hearing before the Wichita-Sedgwick County Metropolitan Planning Commission, that notice of said hearing be given as provided by law, and that as such time and place and at such hearing, the Wichita-Sedgwick County Metropolitan Area Planning Commission orders the vacation of the above-described

\_\_\_\_\_  
Petitioner(s) or  
Agent of Petitioner(s)

\_\_\_\_\_  
Petitioner(s) or  
Agent of Petitioner(s)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

VAC2005-00020 ORDER

BEFORE THE CITY COUNCIL OF THE  
CITY OF WICHITA, SEDGWICK COUNTY, KANSAS

IN THE MATTER OF THE VACATION OF )  
A PORTION OF A PLATTED FRONT )  
SETBACK )  
)  
GENERALLY LOCATED MIDWAY BETWEEN )  
MAPLE STREET AND KELLOGG AVENUE, )  
ON THE SOUTHEAST CORNER OF THE )  
LINK STREET - 135TH STREET WEST )  
INTERSECTION )

Case No. VAC2005-00020

MORE FULLY DESCRIBED BELOW )

## VACATION ORDER

NOW on this 21st day of June, 2005 comes on for hearing the petition for vacation filed by Icer S. Vaughn praying for the vacation of the following described portion of the platted front setback, to wit:

The west 6-inches of the platted 20-foot front setback running parallel to the east lot line of Lot 1, Block A, the Auburn Hills 9th Addition, Wichita, Sedgwick County, Kansas.

The City Council, after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in The Wichita Eagle on May 5, 2005, which was at least 20 days prior to the public hearing.
2. No private rights will be injured or endangered by the vacation of the above described portion of the platted front setback and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
4. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.
5. The vacation of the portion of the platted front setback described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 21st day of June 2005 ordered that the above described portion of the platted front setback is hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall certify a copy of this order to the Register of Deeds of Sedgwick County.

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Carlos Mayans, Mayor  
ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Gary Rebenstorf, Director of Law

**VAC2005-00020**  
**END**

### **Agenda Item No. 36**

City of Wichita  
City Council Meeting

June 21, 2005

Agenda Report No. 05-0614

TO: Mayor and City Council Members

SUBJECT: Programmatic Agreement regarding the administration of the Section 106 review  
for HUD funded projects  
(All Council Districts)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

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Recommendation: Authorize the City Manager to sign the Programmatic Agreement.

Background: In accordance with the City of Wichita's "Consolidated Plan", the City staff administers Federal Housing and Urban Development (HUD) grant funds. In order for these local projects to be eligible for federal funding, an environmental assessment must be completed to ensure that there are no negative impacts to people or the environment as a result of the proposed project. The environmental review process includes a Section 106 review where a determination of adverse effect on historic properties is made. Currently, City staff are limited in the scope of projects they may review and must transmit projects to the State Historic Preservation Officer (SHPO) for review. This programmatic agreement will expand the existing agreement between the City and the SHPO by increasing the number of activities that City staff are allowed to review without consulting the SHPO.

Analysis: The execution of this agreement will streamline and shorten the Section 106 review process for HUD funded projects by increasing the number of activities that City staff may authorize without first consulting the SHPO, thereby reducing the amount of time necessary for projects to be reviewed and approved.

Financial Considerations: None to the City.

Legal Considerations: The Law Department has reviewed the agreement and approved as to form.

Recommendations/Actions: Authorize the City Manager to sign the Programmatic Agreement.

### **Agenda Item No. 37**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0615

TO: Mayor and City Council Members

SUBJECT: A05-12R Request by Gary B. and Janet Hoover to annex land generally located south of 37th Street North between Maize and 119th Street West.  
(District V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

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Recommendation: Place the annexation ordinance on first reading.

Background: The City has received a request to annex 1 acre of land generally located south of 37th Street North between Maize and 119th Street. The annexation area abuts the City of Wichita to the north and east. In addition, a plat is currently being requested for final approval for this proposed annexation area and the adjoining tract of land to the east. The property owner proposes to utilize this area of land as a utility easement.

Analysis:

Land Use and Zoning: The proposed annexation area consists of a 1 acre, 70 ft. wide, privately-owned right-of-way easement that is incorporated with the Royal Magnolia plat that is currently being requested for final approval concurrent with this annexation. The property is currently zoned "SF-20" Single-Family Residential. Upon approval of the annexation and the plat, the property will convert to a "PUD" Planned Unit Development. The resolution establishing the PUD zone change shall not be published until the plat has been approved and recorded with the Register of Deeds.

Property to the north of the annexation area is zoned "SF-5" Single-Family Residential, while property to the northeast is zoned "LC" Limited Commercial. Property to the west is within the City of Maize. The annexation of this property is consistent with the current working agreement between the City of Maize and the City of Wichita regarding long-term, coterminous boundaries.

Public Services: The annexation area is currently being used to provide access to a property located to the southwest. As a condition of the Royal Magnolia plat approval, the property owner will convert the annexation area into a drainage and utility easement. A private access agreement will also be established to provide the southwest property owner access to his/her property.

Street System: The annexation area borders 37th Street North, which is a paved, two-lane arterial road. According to the City of Wichita Capital Improvement Program (CIP) 2004-2013,

37th Street North is scheduled for improvements from Maize to Tyler. According to the Sedgwick County Capital Improvement Program 2005-2009, 119th Street from 29th to 53rd Street is scheduled for improvements in 2009. The 2004 Transportation Improvement Program does not call for improvements near the proposed annexation site.

Public Safety: Fire services to this site can be provided by the City of Wichita within a nine (9) to ten (10) minute approximate response time from City Station No. 16 located at 1632 North Tyler. Upon annexation, police protection will be provided to the area by the Patrol West Bureau of the Wichita Police Department, headquartered at 661 N. Elder.

Parks: The Sunset Park, a 19-acre park, is located approximately 3 miles southeast of the proposed annexation area. According to the 1996 Parks and Open Space Master Plan, a proposed pathway has been proposed that would run along Maize Road - east of the subject property.

School District: The annexation area is part of the Unified School District 266 (Maize School District). Annexation will not change the school district.

Comprehensive Plan: The proposed annexation is consistent with the Wichita-Sedgwick County Comprehensive Plan. The annexation area falls within the 2030 Wichita Urban Service Area as shown in the Plan.

Financial Considerations: The subject property is incorporated with the Royal Magnolia plat. The appraised and assessed value of this property is not available at this time.

Legal Considerations: The property is eligible for annexation under K.S.A. 12-519, et seq.

Recommendations/Actions: Approve the annexation request and first reading of the Ordinance.

### **Agenda Item No. 38**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0616

TO: Wichita Housing Authority Board Members

SUBJECT: Admissions & Continued Occupancy Policy (ACOP)

INITIATED BY: Housing and Community Services Department

AGENDA: Housing Authority

Recommendation: Review and approve the Admissions and Continued Occupancy Policy revision for the administration of the Public Housing Program, adopt the resolution and provide the necessary signatures.

Background: Public housing authorities are required by Department of Housing and Urban Development (HUD) regulations to adopt and maintain admission, occupancy and waiting list policies, and to revise them as necessary. The last time that the Wichita Public Housing Program revised its Admissions & Continued Occupancy Policy (ACOP) was on February 8, 2005.

Analysis: HUD has directed housing authorities to include language in the ACOP relative to the use of up-front income verification (UIV) including centralized computer matching systems. The Wichita Housing Authority (WHA) proposes to revise its policy regarding the use of UIV systems, to include the required language. The proposed revision is attached.

Financial Considerations: None.

Legal Considerations: None.

Recommendations/Actions: Review and approve the Admissions and Continued Occupancy Policy revision for the administration of the Public Housing Program, adopt the resolution and provide the necessary signatures.

#### Admissions & Continued Occupancy Policy (ACOP) CONTRACT AMENDMENT

THIS AGREEMENT made and entered into this \_\_\_\_\_ day of June 2005, by and between the City of Wichita, Kansas, a municipal corporation hereinafter known as "City", and The Board of County Commissioners of Sedgwick County, Kansas, hereinafter known as "County".

WHEREAS, the parties have previously entered into an Interlocal Agreement approved by Council on the 8th day of February, 2005, in which County agreed to provide bus transportation for outlying communities in the Wichita MSA; and,

WHEREAS, the parties wish to amend said Agreement.

NOW, THEREFORE, in consideration of the premises, the parties agree as follows:

1. The Interlocal Agreement between the parties approved February 5, 2005, is hereby amended by providing and reaffirming that all its provisions remain in full force and effect, with the exception of the amendments stated herein.
2. The maximum amount to be paid to County for the work under said Interlocal Agreement shall be changed in each occurrence in the original Agreement from \$122,950.00 to \$147,950.00.
3. The additional compensation shall be used to augment the services provided to the cities of Derby and Haysville, Kansas, and the immediately surrounding areas.

IN WITNESS WHEREOF, the parties have set their hands and seals the day and year first above written.

Attest:

\_\_\_\_\_  
Karen Sublett, City Clerk

CITY OF WICHITA, KANSAS

By \_\_\_\_\_  
Carlos Mayans, Mayor

Approved as to form:

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law  
and City Attorney

Board of County Commissioners of  
Sedgwick County, KS

By \_\_\_\_\_  
Dave Unruh, Chairman

Approved as to form:

\_\_\_\_\_  
Admissions & Continued Occupancy Policy  
(ACOP)  
Richard A. Euson, County Counselor

Admissions & Continued Occupancy Policy (ACOP) CONTRACT AMENDMENT  
END

Admissions & Continued Occupancy Policy (ACOP)

## XVI. UP-FRONT INCOME VERIFICATION POLICY

Public Housing will utilize up-front income (UIV) verification methods, including TASS and the Work Number, whenever possible as well as any other UIV that might become available. When HUD announces the availability of the UIV system or any future systems, additional UIV tools will be used, including a centralized computer matching system. Third party verification may continue to be used to complement up-front income verification.

UIV may be used in lieu of third party verifications when there is not a substantial difference between UIV and tenant reported income. HUD defines substantial difference as \$200 or more per month.

If the income reflected on the UIV verification is less than that reflected on the tenant provided documentation, Public Housing will use tenant provided documents to calculate anticipated annual income as long as the difference is within the aforementioned \$200 threshold. The income reflected on the UIV verification must not be more than 90 days old.

If the income reflected on the UIV verification is greater than current tenant provided documentation, Public Housing will use UIV income data to calculate anticipated annual income as long as the difference is within the above mentioned \$200 threshold, unless the tenant

provides documentation of a change in circumstances. The tenant supplied documents must not be more than 60 days old.

In cases where UIV data is substantially different than tenant reported income, Public Housing will utilize written third party verification to verify the information. When Public Housing cannot readily anticipate income, such as in cases of seasonal employment, unstable working hours and suspected fraud, Public Housing will review historical income data for patterns of employment, paid benefits and receipt of other income to anticipate income. Public Housing will analyze all data and attempt to resolve any income discrepancy. The most current verified income data would be used to calculate anticipated annual income.

If Public Housing is unable to anticipate annual income using current information due to historical fluctuations in income, Public Housing may average amounts received/earned to anticipate annual income. If the tenant disputes UIV SS/SSI benefit data, Public Housing will request the tenant to provide a current original SSA notice or benefit letter within 10 business days of being notified of the dispute.

#### **Admissions & Continued Occupancy Policy (ACOP)**

**END**

### **Agenda Item No. 39**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0617

TO: Wichita Housing Authority Board Members

SUBJECT: Section 8 Administrative Plan

INITIATED BY: Housing and Community Services Department

AGENDA: Housing Authority

Recommendation: Review and approve the Section 8 Administrative Plan revision for the administration of the Section 8 Program, adopt the resolution and provide the necessary signatures.

Background: Housing authorities are required by Department of Housing and Urban Development (HUD) regulations to adopt and maintain admission, occupancy and waiting list policies, and to revise them as necessary. The last time that the Wichita Section 8 Program revised its Administrative Plan was on February 8, 2005.



Analysis: HUD has given the directive to housing authorities to include language in the Section 8 Administrative Plan relative to the use of up-front income verification (UIV) including centralized computer matching systems. The Wichita Housing Authority (WHA) proposes to revise its policy regarding the use of UIV systems. The proposed language is attached.

Financial Considerations: None.

Legal Considerations: None.

Recommendations/Actions: Review and approve the Section 8 Administrative Plan revision for the administration of the Section 8 Program, adopt the resolution and provide the necessary signatures.

## SECTION 8 ADMINISTRATIVE PLAN

### Appendix 1: Acceptable Forms of Verification

Up-front Income Verification (UIV)

Enterprise Income Verification (EIV)

Section 8 Program will utilize Up-front Income (UIV) Verification methods, Enterprise Income Verification (EIV) including TASS and the Work Number, whenever possible as well as any other UIV that might become available. When HUD announces the availability of the UIV system or any future systems, additional UIV tools will be used, including a centralized computer matching system. Third party verification may continue to be used to complement up-front income verification.

Upfront income verification may be used in lieu of third party verifications when there is not a substantial difference between UIV and tenant reported income. HUD defines substantial difference as \$200 or more per month.

If the income reflected on the UIV verification is less than that reflected on the tenant provided documentation, Section 8 Program will use tenant provided documents to calculate anticipated annual income as long as the difference is within the aforementioned \$200 threshold. The income reflected on the UIV verification must not be more than 60 days old.

If the income reflected on the UIV verification is greater than current tenant provided documentation, Section 8 Program will use UIV income data to calculate anticipated annual income as long as the difference is within the above mentioned \$200 threshold, unless the tenant provides documentation of a change in circumstances. The tenant supplied documents must not be more than 60 days old.

In cases where UIV data is substantially different than tenant reported income, Section 8 office will utilize written third party verification to verify the information. When Section 8 office cannot readily anticipate income, such as in cases of seasonal employment, unstable working hours and suspected fraud, Section 8 office will review historical income data for patterns of

employment, paid benefits and receipt of other income to anticipate income. Section 8 office will analyze all data and attempt to resolve any income discrepancy. The most current verified income data would be used to calculate anticipated annual income.

If Section 8 office is unable to anticipate annual income using current information due to historical fluctuations in income, Section 8 Program may average amounts received/earned to anticipate annual income. If the tenant disputes UIV SS/SSI benefit data, Section 8 office will request the tenant to provide a current original SSA notice or benefit letter within 10 business days of being notified of the dispute.

#### Section 8 Administrative Plan

RESOLUTION NO. H- 05-03

#### A RESOLUTION TO ADOPT THE UP-FRONT INCOME VERIFICATION

WHEREAS, Department of Housing and Urban Development (HUD) regulations require a public housing authority (PHA) to verify the factors of eligibility and Total Tenant Payment/Tenant Rent;

WHEREAS, Applicants and tenants must provide true and complete information to a PHA whenever information is requested and verified by third-party verifications;

WHEREAS, A PHA is required to use up-front income verification methods, including TASS and the Work Number, whenever possible as well as any other centralized computer matching system authorized by HUD;

WHEREAS, The City of Wichita Housing Authority has responded to the HUD regulations and directives by amending its Section 8 Administrative Plan to include recommended language; and

WHEREAS, The Housing Authority Board certifies the inclusion of language relative to the use of available UIV systems into Section 8 Administrative Plan.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF WICHITA HOUSING AUTHORITY BOARD AS FOLLOWS:

Acting on behalf of the City of Wichita Housing Authority Board, as its Chairperson, I certify the inclusion of language relative to the use of available UIV systems into the Section 8 Administrative Plan.

CITY OF WICHITA HOUSING AUTHORITY BOARD

\_\_\_\_\_  
Chairperson and Mayor

\_\_\_\_\_  
date

\_\_\_\_\_  
ATTEST: Mary K. Vaughn

\_\_\_\_\_  
date

\_\_\_\_\_  
Director

\_\_\_\_\_  
Section 8 Administrative Plan

END

## **AGENDA ITEM NO. 40**

City of Wichita  
City Council Meeting  
June 21, 2005

Agenda Report No. 05-0618

TO: Wichita Airport Authority

SUBJECT: Supplemental Agreements - Cargo Building Lease Renewals

INITIATED BY: Airport Department

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the Supplemental Agreements.

Background: The cargo building was originally constructed in 1967 and expanded in 1979. The 31,500 sq.ft. facility currently houses 15 different tenants, and is located to the west and north of the terminal building on Mid-Continent Airport. Previous agreements have been for a three-year term; however, in anticipation that this building will be relocated to accommodate the terminal, these agreements are being renewed for a one-year period and then on a month-to-month commencing July 1, 2005.

Analysis: The current lease agreements end June 30, 2005. Facility rental will remain at \$6.50 per sq. ft. for a one-year lease and \$7.50 per sq.ft. for a month-to-month lease agreement, based upon an earlier appraisal by the Martens Companies.

Financial Considerations: Total revenue generated from the existing agreements is \$197,080 per year.

Legal Considerations: The supplemental agreements have been approved as to form by the Department of Law.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the supplemental agreements, and authorize the necessary signatures.